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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1623 of 2024

1.Kumari
2.Lalitha
3.Samandeeswari

... Appellants

.VS.

1.E.Pushparaj

3.The Divisional Manager,
United India Assurance Co., Ltd.,
Motor Third Party Claims Office,
No.147/58-C, Kamarajar Street,
Kancheepuram.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 06.08.2022 made in MCOP No.369 of 2016, on the file of the Motor Accident Claims Tribunal (In the Court of the District and Sessions Judge, District and Sessions Court No.II, (FAC)), Kanchipuram.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.R.Rathna Thara for R2



JUDGMENT

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The claimants who are the daughters of the deceased Venda not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.698 of 2022, dated 01.09.2023, have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Venda was travelling as a pillion rider in a two wheeler on 06.01.2016 from Walajabad-Thammanur Village and at about 7 a.m., when the vehicle was nearing Kosuvankuttai, the rider of the vehicle drove the vehicle in a rash and negligent manner. As a result of which, the deceased fell down and sustained grievous injuries and succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the two wheeler. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.9,50,000/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	9,00,000
2.	Medical Expenses	--
3.	Funeral Expenses	10,000
4.	Loss of Consortium	--
5.	Loss of Estate	15,000
6.	Loss of Love and Affection	25,000
7.	Transport to Hospital	--
8.	Damages to Clothing	--
9.	Mental Agony and Shock	--
10.	Loss of conjugal happiness	--
	Total	9,50,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.K.Varadhakamaraj, learned counsel appearing on behalf of the appellant and Mr.R.Rathna Thara, learned counsel appearing on behalf of the 2nd respondent.



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7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. The bone of contention is with regard to the notional monthly income that was fixed by the Tribunal. The claimants came up with a case that the deceased was doing tailoring and embroidering work and was earning a sum of Rs.12,000/- per month. There was no proof regarding the avocation of the deceased and the monthly income earned. Therefore, the Tribunal fixed the notional monthly income at Rs.6,000/-. Considering the fact that the accident had taken place in the year 2016 and the age of the deceased was 40 years and there were three claimants who are all the daughters, this Court is inclined to fix the notional monthly income at Rs.10,000/- and 25% can be added towards future prospects. Thus, the compensation under the head of loss of income/dependency is calculated as follows:

$$12500 \times 12 \times 15 \times \frac{2}{3} = \text{Rs.}15,00,000/-$$

9. There is yet another head where enhancement of compensation is required and that is the head of loss of love and affection. The Tribunal has



granted only a sum of Rs.25,000/- under this head. This Court is inclined to enhance the same to Rs.1,20,000/- (Rs.40,000/- x 3)

10.The Tribunal has granted a sum of Rs.10,000/- under the head of funeral expenses which can be increased to Rs.15,000/-

11.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	15,00,000
2.	Medical Expenses	--
3.	Funeral Expenses	15,000
4.	Loss of Consortium	--
5.	Loss of Estate	15,000
6.	Loss of Love and Affection	1,20,000
7.	Transport to Hospital	--
8.	Damages to Clothing	--
9.	Mental Agony and Shock	--
10.	Loss of conjugal happiness	--
	Total	16,50,000

12.The compensation awarded by the tribunal at Rs.9,50,000/- is enhanced to Rs.16,50,000/-. The second respondent insurance company is



directed to deposit the enhanced compensation of Rs.16,50,000/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.7,00,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 324 days as was ordered by this Court in C.M.P.No.25204 of 2023, dated 04.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. It goes without saying that the enhanced compensation that is paid by the Insurance Company can be recovered from the owner of the vehicle as was ordered by the Tribunal.

13.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

11.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To
The Motor Accident Claims Tribunal (In the Court of the District and Sessions Judge, District and Sessions Court No.II, (FAC)), Kanchipuram.



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N. ANAND VENKATESH., J

SSR

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