



C.M.A.No.2749 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.2749 of 2023

S.Geetha

.. Appellant

Vs.

1.Shree Lakshmi Narayana Transport,
Rep. by its Proprietor,
No.14, Ravathanore Colony 1st Street,
Acharapakkam, Maduranthakam Taluk,
Kancheepuram District.

2.The Manager,
National Insurance Co. Ltd.,
Motor Third Party Claims Cell,
No.46, Moore Street,
Parrys, Chennai – 600 001.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.5291 of 2018 dated 19.07.2023, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.R.Navaneetha Krishnan

For R2 : Dr.C.Paranthaman



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J U D G M E N T

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The claimant who is the mother of the deceased not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award passed by the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai, in M.C.O.P.No.5291 of 2018 dated 19.07.2023.

2.Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.

3.The case of the claimant is that her son was riding a two wheeler on 05.08.2018 near Kilpauk and at about 00.45 hours, the offending vehicle which is a lorry was driven in a rash and negligent manner and it hit the two wheeler, as a result of which the deceased Vishwanathan sustained grievous injuries and he succumbed to the injuries. An FIR came to be registered against the driver of the lorry. It is under these circumstances, the claim petition came to be filed.

4.The Tribunal came to a conclusion that the accident had taken



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place only due to rash and negligent driving on the part of the driver of the lorry. Having come to such a conclusion, the Tribunal fixed the total compensation at Rs.41,02,000/- under various heads as follows:

1.Total loss of Dependency	-	Rs.40,32,000.00
2.Loss of Consortium	-	Rs.40,000.00
3.Loss of Estate	-	Rs.15,000.00
4.Funeral Expenses	-	Rs.15,000.00

		Rs.41,02,000.00

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

6.The main ground that was urged by the learned counsel for the appellant was that the Tribunal did not properly appreciate the evidence of P.W.4 and the documents that were marked as Ex.P24, which clearly shows that the deceased was earning monthly salary of more than Rs.70,000/- since he was working as a Manager in Royal Bank of Scotland (RBS). Whereas, the Tribunal has fixed the monthly income at



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Rs.30,000/- , which is on the lower side.

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7.This Court carefully went through the evidence of P.W.4 and also Ex.P24 and Ex.P26. It is seen from the Income Tax Returns for the Assessment Year 2018-2019, that the monthly income of the deceased was in the range of Rs.28,622/-. Whereas, the pay slips for the period February 2018 to July 2018 showed that the monthly salary of the deceased was in the range of Rs.80,000/-. It is therefore clear that there is a huge disparity in the monthly income and therefore, the Tribunal has come to a conclusion that the evidence of P.W.4 and Ex.P24 cannot be acted upon and accordingly, the Tribunal acted upon Ex.P26, which is the Income Tax Returns and fixed a sum of Rs.30,000/- per month as salary.

8.The above finding of the Tribunal does not suffer from any infirmity or any illegality and it does not require the interference of this Court. The quantum of compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.



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9. Accordingly, the compensation awarded by the Tribunal at Rs.41,02,000/- stands confirmed and the 2nd respondent-Insurance Company is directed to deposit the compensation 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, if not already deposited. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

20.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1. The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.



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N.ANAND VENKATESH, J.

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2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

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