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Civil Miscellaneous Appeal No.1958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1958 of 2024

1.Nathiya

2.Minor Veeramanikandan

3. Minor Tamilkumaran

(Minors are represented by their mother

1st petitioner Nathiya)

4. Deviga

... Appellants

Vs.

1. S.Arunachalam

2. The Divisional Manager

United India Insurance Co. Ltd.,

Motor Third Party claims office,

No.147,/58, C 3rd Floor,

Kancheepuram

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 12.04.2022 made in M.A.C.T.O.P.No.96 of 2018 on the file of the Motor Accident



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Claims Tribunal, Chennai (District and Sessions Judge, Additional District Court, Fast track Court), Kanchipuram.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : R1- Exparte
M/s.R.Sreevidhya for R2

JUDGMENT

The claimants, who are the wife, children and mother of the deceased Balaji, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal challenging the award passed by Motor Accident Claims Tribunal, Chennai (district and Sessions Judge, Additional District Court Fast Track Court), Kancheepuram, in M.A.C.T.O.P.No.93 of 2018 dated 12.04.2022.

2. The case of the claimants is that the deceased Balaji was travelling in a two wheeler on 06.12.2017 at Walajabad to Kancheepuram road and at about 11.20 a.m, when the two wheeler was nearing the Vengudi Village, the offending vehicle which was a bus was driven in a rash and negligent manner and it dashed on the rear side of the two



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 driver of the offending vehicle.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.14,81,200/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income	14,11,200/-
2.	Funeral expenses	15,000/-
3.	Loss of Consortium	40,000/-
4.	Loss of Estate	15,000/-
	Total	Rs.14,81,200/-



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

6. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

7. Heard Mr.K.Varadha Kamaraj, learned counsel for appellants/claimants and Mr.R.Sreevidhya learned counsel for 2nd respondent.

8. This Court carefully considered the submissions made on either side and the materials available on record.

9. This Court also carefully went through the award passed by the Tribunal.

10. The claimants came up with a case that the deceased was a



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Tanker lorry driver and earning a sum of Rs.25,000/- per month. There was no proof regarding the occupation of the deceased and the income earned by him. The Tribunal fixed a sum of Rs.7,000/- as notional monthly income. The same is clearly on the lower side. Considering the fact that the accident had taken place in the year 2017 and there are nearly four claimants who are dependant on the income of the deceased, this Court is inclined to fix Rs.14,000/- per month towards notional monthly income. Considering the fact that the age of the deceased is 35 years at the time of the accident, 40% can be added towards future prospects. Thus, the compensation under the head of loss of income / dependency is calculated as follows :-

Monthly Income	:	Rs. 14,000/-
Add: Future Prospects	:	Rs. 5,600/-
40% of Rs.14,000/-	:	-----
		Rs. 19,600/-
Annual Income	:	Rs. 2,35,200/-
(19,600 * 12)		
Less : Personal expenses		
Rs.2,35,200/- * 1/4	:	Rs. 58,800/-

		Rs. 1,76,400/-
Multiplier	:	x 16

Loss of income/dependency	:	Rs. 28,22,400/-



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11. The Tribunal has not granted any compensation under the head of “loss of love and affection” for claimants 2 to 4. Therefore, this Court is inclined to fix a sum of Rs.1,20,000/- (Rs.40,000 each x3) under this head.

12. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Total loss of dependency	Rs.28,22,400/-
2.	Loss of Consortium	Rs. 40,000/-
3.	Loss of love and affection	Rs.1,20,000/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral expenses	Rs.15,000/-
	Total	Rs.30,12,400/-

14. The compensation awarded by the Tribunal at Rs.14,81,200/- is enhanced to Rs.30,12,400/-. The Insurance company is directed to deposit the enhanced compensation, 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.15,31,200/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 470 days as was ordered by this Court in C.M.P.No.25481 of 2023, dated 01.07.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the



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above terms. No costs.

02.08.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To, Motor Accident Claims Tribunal, Chennai (District and Sessions Judge, Additional District Court, Fast track Court), Kanchipuram.

N.ANAND VENKATESH.,J

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