IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.484 of 2024

1.Chinnathaie
2.Ramasamy
3.Ari
4.Anjalai

...Appellant

Vs

1.Jeppiaar Milk Products Pvt.Ltd.,
No.320/4, Main Road,
Kariyamangalam Village and Post,
Chengam Taluk, Thiruvannamalai 606 702

2.The Divisional Manager,
United India Insurance Company Limited,
No.46, Katpadi Salai, Vellore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance and set aside the award against the judgment and decree dated 30.03.2023 made in MACTOP.No.592 of 2022 on the file of the Motor Accident Claims Tribunal, Motor Accident Compensation Claims

Tribunal/Principal District Judge, Thiruvannamalai.

For Appellant : Ms.A.Subadra

For Respondent : Mr.M.Krishnamoorthy for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 30.03.2023 made in MACTOP.No.592 of 2022.

2. The learned counsel for the claimant would submit that on 16.01.2018, while one Rajasekar was standing in the extreme left side of the road near Mariyamman Koil, Thokkavadi Village, Thiruvannamalai, a Milk Tanker Lorry bearing Registration No.TN-25-AD-5577 came in a rash and negligent manner and dashed against him, due to which he was died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

S.No	***Heads***	***Compensation (Rs.)***
1	Loss of Income	9,79,455

S.No	Heads	Compensation (Rs.)
2	Loss of Estate	15,000
3	Funeral Expenses	15,000
4	Loss of Consortium	40,000
	Total	10,49,455

3. By referring the above, he would submit that the Tribunal has taken a sum of Rs.13,705/- as notional income of the deceased and added 40% towards future prospects, however, due to a calculation mistake the Tribunal had deducted 3/4 towards personal expenses instead of 1/4, due to which, the loss of income was determined by the Tribunal as a sum of Rs.9,79,455/- instead of a sum of Rs.29,38,365/-

4. Further, he would submit that since the deceased was a bachelor, 50% has to be deducted towards his personal expenses. However, the Tribunal had wrongly deducted 1/4th instead of 50% towards personal expenses of the deceased. That apart, loss of consortium awarded by the Tribunal for a sum of Rs.40,000/- to the father and mother of the deceased (Rs.20,000/- each) is too low and hence, he requests this Court to enhance the same.

5. The learned counsel appearing for the respondent would fairly submit

that there is a calculation mistake in the amount determined by the Tribunal towards loss of income. Further, as contended by the learned counsel for the appellant, the Tribunal has to deduct 50% towards the personal expenses of the deceased. However, 1/4th has been wrongly deducted towards the personal expenses of the deceased. With regard to all other aspects, he would request this Court to confirm the award passed by the Tribunal.

6. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

7. In the present case, no doubt that the determination of notional income of a sum of Rs.13,705/- has been correctly arrived at by the Tribunal by adding 40% towards future prospects and by applying 17 as multiplier, however, the Tribunal is supposed to have deducted 50% towards personal expenses of the deceased instead of 1/4th. Hence, by rectifying the said mistake, the loss of income would be calculated as follows:

Rs.19,187/- (notional income + future prospects 40%) * 12 (months)
* 17 (multiplier) * 50% (deduction towards personal expenses)

= Rs.19,57,074/-

8. Further, it appears that the Tribunal had only awarded a sum of Rs.40,000/- towards loss of consortium for the mother and father of the deceased, which is on the lower side. Hence, the same is enhanced to a sum of Rs.80,000/- (Rs.40,000/- each). That apart, since no amount was awarded towards loss of love and affection to the siblings of the deceased, this Court is inclined to award a sum of Rs.40,000/- (Rs.20,000/- each) to the two siblings of the deceased.

9. Accordingly, the compensation awarded by the Tribunal is modified as follows:

S.No.	***Heads***	***Compensation awarded by Tribunal (Rs.)***	***Compensation awarded by this Court (Rs.)***
1	Loss of Income	9,79,455	19,57,074
2	Loss of Estate	15,000	15,000
3	Funeral Expenses	15,000	15,000
4	Loss of Consortium to appellants 1 and 2	40,000	80,000
5	Loss of Love and Affection to Siblings/appellants 3	Nil	40,000

S.No.	***Heads***	***Compensation awarded by Tribunal (Rs.)***	***Compensation awarded by this Court (Rs.)***
	and 4		
	Total	10,49,455	21,07,074

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.21,07,074/-. Accordingly, the award amount stands increased from a sum of Rs.10,49,455/- to Rs.21,07,074/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:

i) 1st appellant/Mother of the deceased – Rs.9,07,074/-
ii) 2nd appellant/Father of the deceased – Rs.9,00,000/-
iii) 3rd appellant/Brother of the deceased – Rs.1,50,000/-
iv) 4th appellant/Sister of the deceased – Rs.1,50,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.21,07,074/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MACTOP.No.592 of 2022 on the file of the Motor Accident Claims Tribunal,

Motor Accident Compensation Claims Tribunal/Principal District Judge, Thiruvannamalai. Further, as per the order dated 30.01.2024, the 2nd respondent shall not pay any interest for the delayed period of 107 days in filing the present appeal. Upon such deposit, the Tribunal is directed to transfer the award amount to respective bank accounts of the claimants, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the deposit and receipt of the Bank details obtained from the claimants. No costs.

07.03.2024

Index: Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
nsa

KRISHNAN RAMASAMY,J.

nsa

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