



Civil Miscellaneous Appeal No.1685 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1685 of 2024

1.Latha

W/o.Late Ravikumar

2.Nithyasree

D/o.Late Ravikumar

3.Minor Nanthini

D/o.Late Ravikumar

4.Minor Divyasree

D/o.Late Ravikumar

[Minor appellants 3 and 4 are represented
by their mother Latha as natural guardian)

Saikumari (died)

... Appellants

Vs.

1.N.Chandra Sekar

S/o.Naamathan

(Since R1 remained *ex parte* before the Tribunal,
his presence may be dispensed with)

2.United India Insurance Company Limited,

No.134, Greams Road,

Anna Salai, Chennai - 600 006.

... Respondents

[Cause title accepted *vide* Court order dated 24.11.2023 made in
C.M.P.No.26690 of 2023 in C.M.A.Sr.No.147546 of 2023]



Civil Miscellaneous Appeal No.1685 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.10.2021 made in M.C.O.P.No.7044 of 2017 on the file of Motor Accident Claims Tribunal, (Special Sub Court No.2, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

For Appellant : Ms.A.Subadra

For Respondents : Mr.D.Bhaskaran [R2]

JUDGMENT

The appellants/claimants, who are the daughter and mother of the deceased Anjalai, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, (Special Sub Court No.2, Motor Accidents Claims Petitions), Small Causes Court, Chennai, in M.C.O.P.No.7044 of 2017, dated 07.10.2021, have filed this appeal.

2. The case of the claimants is that the deceased Ravikumar was riding a motorised cycle on 26.08.2017 at Ennore Express Road and at about 10.15 p.m., when he was coming near a tailor shop at Tiruvottiyur, the offending vehicle, a lorry belonging to the first respondent, was driven in a rash and negligent manner and it dashed on the rear side of the motorized cycle. The deceased was thrown out of the vehicle and he



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. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.18,05,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	15,75,000/-
2.	Loss of consortium	2,00,000/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
	Total	18,05,000/-

The above compensation was directed to be paid along with interest at 7.5% p.a.



WEB COPY

4. The claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal seeking enhancement of compensation.

5. Heard Ms.A.Subadra, learned counsel for appellants/claimants and Mr.D.Bhaskaran, learned counsel for second respondent insurance company.

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

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

8. The main issue raised by learned counsel for appellants is with regard to the notional monthly income fixed by the Tribunal. The claimants came up with a case that the deceased was having a motorized cycle and was a coolie and was earning Rs.30,000/- p.m. There was no evidence available regarding the avocation and the monthly income



Civil Miscellaneous Appeal No.1685 of 2024

WEB COPY

earned by the deceased. The Tribunal had fixed the notional monthly income at Rs.10,000/- p.m. Considering the fact that the accident had taken place in the year 2017 and also the fact that there are totally five dependents in this case and taking into account the notional monthly income fixed in other cases where the accident takes place in the year 2017, this Court is inclined to fix the notional monthly income at Rs.14,000/-. Considering the age of the deceased, 25% can be added towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 14,000/-
Add: Future Prospects 25% of Rs.14,000/-	:	Rs. 3,500/- ----- Rs. 17,500/-
Annual Income (17,500 * 12)	:	Rs. 2,10,000/-
Less : Personal expenses Rs.2,10,000/- * 1/4	:	Rs. 52,500/- ----- Rs. 1,57,500/-
Multiplier	:	x 14 -----
Loss of income/dependency	:	Rs.22,05,000/- -----

9. The compensation granted under the other heads is justified and



does not require the interference of this Court.

WEB COPY

10. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of dependency	15,75,000/-	22,05,000/-
2.	Loss of consortium	2,00,000/-	2,00,000/-
3.	Loss of estate	15,000/-	15,000/-
4.	Funeral expenses	15,000/-	15,000/-
	Total	18,05,000/-	24,35,000/-

11. The compensation awarded by the Tribunal at Rs.18,05,000/- is enhanced to Rs.24,35,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.6,30,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 577 days as was ordered by this Court in C.M.P.No.28120 of 2023 in



Civil Miscellaneous Appeal No.1685 of 2024

WEB COPY

C.M.A.Sr.No.147546 of 2023 dated 11.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. 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 partly allowed. No costs.

16.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No
gm

To

The Motor Accident Claims Tribunal,
(Special Sub Court No.2,
Motor Accidents Claims Petitions),
Small Causes Court, Chennai.



WEB COPY



Civil Miscellaneous Appeal No.1685 of 2024

N.ANAND VENKATESH, J.

gm

Civil Miscellaneous Appeal No.1685 of 2024