



C.M.A.No.3037 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3037 of 2024

- 1.Sathya
- 2.Minor Yogesh
- 3.Minor Sandhiya
- 4.Selvi
- 5.Ramar

Minors are rep.by their next friend/guardian/mother,
first appellant

... Appellants

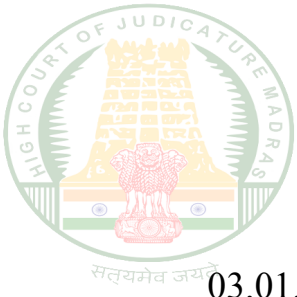
Vs.

- 1.Chitrakala

- 2.The New India Assurance Company Limited,
Meyyanoor Micro Office,
369/1, Omalur Road,
Five Roads,
Salem-636 004.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree dated



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03.01.2022 made in M.C.O.P.No.781 of 2019 on the file of the Special District Court cum Motor Accidents Claims Tribunal, Dharmapuri.

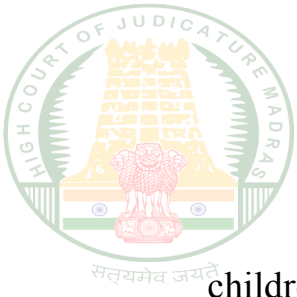
For Appellants : Mr.M.Selvam

For Respondents : Mr.P.S.Kothandaram for R2

J U D G M E N T

The appellants / claimants, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Dharmapuri, in M.C.O.P.No.781 of 2019, dated 03.01.2022, have filed this appeal.

2. On 31.05.2019, at about 04.00 p.m., when the deceased Senthil was riding two wheeler towards Pennagaram, the lorry belonging to the first respondent was driven by its driver in a rash and negligent manner and hit against the two wheeler of the deceased, due to which, the deceased sustained fatal injuries and died on the hospital. Under these circumstances, the claim petition came to be filed by the claimants, who are the wife,



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children and parents of the deceased, before the Tribunal seeking for compensation against the respondents, who are the owner and insurer of the lorry.

3. Before the Tribunal, on the side of the claimants, P.W.1 to P.W.3 were examined and Exs.P1 to P15 were marked. On the side of the second respondent, R.W.1 was examined and Ex.R1 to Ex.R3 were marked. 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 lorry. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.21,57,800/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

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



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5. The learned counsel appearing for the appellants submitted that the Tribunal failed to consider the income of the deceased. At the time of accident, the deceased was working in Agaram Construction, Tiruppur and earning a sum of Rs.35,000/- per month, however, the Tribunal has fixed the monthly income of the deceased as Rs.9,000/- only and the amount awarded under the other heads is also very meagre. Hence, the learned counsel prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company submits that the compensation awarded by the Tribunal is on the higher side which does not require any interference by this Court. Hence, he prays for dismissal of this appeal.



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8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. The factum of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the claimants is with regard to the quantum of compensation awarded by the Tribunal.

10. In the instant case, the deceased was working in Agaram Constructions and was aged about 27 years at the time of accident and the accident had taken place in the year 2019. However, the Tribunal has fixed the monthly income of the deceased at Rs.9,000/- which is on the lower side. Hence, this Court is inclined to enhance the notional monthly income at Rs.15,000/- per month, by applying the ratio laid down by the Apex Court in *Syed Sadiq & Ors. Vs. The Divisional Manager, United India Insurance Co. Ltd (2014 (2) SCC 735)*. If so, the compensation for pecuniary loss would be :



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Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-		-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Less : Personal expenses		
Rs.2,52,000/- * 1/4	:	Rs. 63,000/-

		Rs. 1,89,000/-
Multiplier	:	x 17

Compensation for		
Pecuniary loss	:	Rs.32,13,000/-

11. The amount awarded under the other heads 'loss of spousal consortium', 'loss of parental consortium', 'loss of filial consortium', 'loss of estate' and 'funeral expenses' are reasonable and it does not require any interference of this Court and therefore, the same are hereby confirmed.



12. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Compensation for pecuniary loss	19,27,800/-	32,13,000/-
2	Loss of spousal consortium	40,000/-	40,000/-
3	Loss of parental consortium	80,000/-	80,000/-
4	Loss of filial consortium	80,000/-	80,000/-
5	Loss of Estate	15,000/-	15,000/-
6	Funeral Expenses	15,000/-	15,000/-
	Total	Rs.21,57,800/-	Rs.34,43,000/-



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13. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.21,57,800/- is hereby enhanced to Rs.34,93,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent is directed to deposit the entire award amount now determined by this Court 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 M.C.O.P.No.781 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri. On such deposit, the appellant Nos.1, 4 and 5 are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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14. Insofar as the appellant Nos.2 and 3 are concerned, since they are yet to attain majority, the Tribunal is directed to keep their share in deposit in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until the minors attain majority and interest derived from out of the said share of the minors shall be paid to the first appellant/ mother every quarter to be utilised for the welfare of the said minors. Upon attaining majority and upon proper proof being filed substantiating attainment of majority, the Tribunal is directed to transfer the share of the appellant Nos.2 and 3 directly to the Bank account of the appellant Nos.2 and 3 through RTGS. No costs.

22.11.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

1.The Motor Accidents Claims Tribunal,
Special District Court, Dharmapuri.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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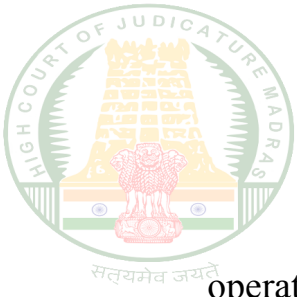
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M.DHANDAPANI, J.

This matter is listed today under the caption "for being mentioned" at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the interest for the default period which has not been granted, vide order of this Court dated 25.10.2024 has not been incorporated in the operative portion of the judgment dated 22.11.2024 in and by which the Civil Miscellaneous Appeal was partly allowed with a direction to the second respondent to deposit the entire award amount now determined by this Court with appropriate interest before the tribunal and therefore, necessary clarification is sought.

3. This Court perused the judgment dated 22.11.2024 and finds that there is no mentioning about the interest for the default period in the



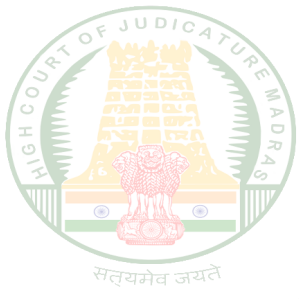
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operative portion of the judgment dated 22.11.2024, though it was not awarded vide order dated 25.10.2024.

4. In view of the same, Paragraph 13 of the judgment dated 22.11.2024 is recalled and shall stand replaced with the following paragraph:

“13. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.21,57,800/- is hereby enhanced to Rs.34,93,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. However, it is made clear that the appellants/claimants are not entitled for the interest for the default period. The second respondent is directed to deposit the entire award amount now determined by this Court 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 M.C.O.P.No.781 of 2019 on the



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file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri. On such deposit, the appellant Nos.1, 4 and 5 are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.”

5. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 22.11.2024 and issue fresh copy of the order to the learned counsel for the parties.

25.02.2025

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