



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1522 of 2024

1.Pachaiyammal

2.Revathi

3.Eswari

4.Kotteswari

..Appellants

.VS.

1.Girish Kumar Chintala

2.HDFC ERGO General Insurance Co., Ltd.,
RR Towers II, 2nd Floor, No.94/95,
TVK Industrial Estate, Guindy,
Chennai – 600 032.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment dated 02.02.2023 passed in MCOP No.1208 of 2020 by the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellant : Mr.R.Dineshkumar

For Respondent : Mr.N.Somasundar for R2



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JUDGMENT

The claimants who are the daughters of the deceased Krishnaveni not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.1208 of 2020, dated 02.02.2023, have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Krishnaveni was crossing the road on 15.02.2020 in a pedestrian crossing at Kolathur, Chennai at about 07:00 Hours and at that point of time, the offending vehicle which is a two wheeler was driven in a rash and negligent manner and it knocked down the deceased. As a result of which, she sustained grievous injuries and she died on the same day. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

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 rider of the two wheeler. Having rendered the above finding, the Tribunal fixed the total compensation at Rs.6,65,200/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Loss of Income/Dependency Rs.8,800 x 12 x 9 x ½	4,75,200
2.	Towards Loss of Estate	15,000
3.	Towards Loss of Consortium (Rs.40,000 x 4)	1,60,000
4.	Towards Funeral Expenses	15,000
	Total	6,65,200

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

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.R.Dineshkumar, learned counsel appearing on behalf of the appellants and Mr.N.Somasundar , learned counsel appearing on behalf of the 2nd respondent.



7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.In the instant case, the deceased was aged about 60 years and she is said to be doing milk business. The accident had taken place in the year 2020. Since there was no proof of income and the occupation of the deceased, the Tribunal had fixed the notional monthly income at Rs.8,000/-. This is clearly on the lower side. Even assuming that the claimant was a house wife, for the accident which took place in the year 2020, the notional monthly income can be fixed at Rs.12,000/- per month. Considering the age of the deceased, 10% can be added towards future prospects. The Tribunal has deducted 50% towards personal expenditure of the deceased. Considering that there are four claimants in this case and one of the claimant was unmarried daughter, this Court is inclined to modify the same and 1/3rd can be deducted towards the personal expenditure of the deceased. Thus, the compensation under the head of loss of income/dependency is calculated as follows:

$$\text{Rs.13,200} \times 12 \times 9 \times 1/3 = \text{Rs.9,50,400/-}$$

9.The compensation that has been fixed under the other heads are



reasonable and does not require the interference of this Court.

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10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Loss of Income/Dependency Rs.13,200 x 12 x 9 x 1/3	9,50,400
2.	Towards Loss of Estate	15,000
3.	Towards Loss of Consortium (Rs.40,000 x 4)	1,60,000
4.	Towards Funeral Expenses	15,000
	Total	11,40,400

11. The compensation awarded by the tribunal at Rs.6,65,200/- is enhanced to Rs.11,40,400/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.11,40,400/-, 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.4,75,200/- is concerned, the appellant/claimant will not be entitled for



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ssr

interest for the period of delay period of 361 days as was ordered by this Court in C.M.P.No.28084 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 claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

12.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

05.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

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

05.07.2024