



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.922 of 2024
and CMP No.8565 of 2024

The Branch Manager,
Shriram General Insurance Company Ltd.,
D.No.122/2B, B.R.Towers, 2nd Floor,
CSI Service Opp. Denkanikottai Main Road,
Santhi Nagar, Hosur – 635 109.
Krishnagiri District.

..Appellant

.vs.

1.Muthuvedi

2.Minor Hansini

3.Minor Jivisha

4.C.Abilash

..Respondents

[2nd and 3rd respondents are minor and are represented by their natural guardian/mother, the 1st respondent herein]

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award dated 03.10.2023 made in MCOP No.642 of 2018 on the file of the Motor Accident Claims Tribunal, Dharmapuri.

For Appellants : Mr.S.Dhakshanamoorthy

For Respondents : Mr.M.Selvam for R1



JUDGMENT

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The Insurance Company has filed the present appeal challenging the Award passed by the Motor Accident Claims Tribunal, Dharmapuri in MCOP No.642 of 2018, dated 03.10.2023.

2.The claimants are the wife and two minor children of the deceased Rajkumar. On 03.07.2018, the deceased Rajkumar was working in a quarry and at about 5.30 p.m., the stones were loaded in the lorry and the driver of the lorry who drove the vehicle in a rash and negligent manner dashed on the deceased, resulting in the instantaneous death of the deceased Rajkumar. 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 negligence on the part of the lorry driver. Having rendered such a finding, the Tribunal fixed the total compensation payable at Rs.37,49,000/- under various heads as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	35,84,000
2.	Loss of Consortium	44,000
3.	Loss of Love and Affection	88,000
4.	Filial Consortium (Father & Mother)	NIL
5.	Loss of Estate	16,500
6.	Funeral Expenses	16,500
7.	Medical Expenditure	NIL
	Total	37,49,000

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

5.The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

6.Heard Mr.S.Dhakshnamoorthy, learned counsel appearing on behalf of the appellant and Mr.M.Selvam, learned counsel appearing on behalf of the 1st respondent.

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



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8. The learned counsel for the appellant Insurance Company primarily raised two grounds. The first ground is with regard to fixation of notional monthly income, which according to learned counsel is on the higher side. The second ground is that the age of the deceased was not properly established and that the Tribunal proceeded based on the age mentioned in the Postmortem Certificate.

9. Insofar as the age of the deceased is concerned, the Tribunal took into consideration the age that was mentioned in the Postmortem Certificate wherein, it was stated that the age of the deceased was 33 years. There was no other contra material available and it is seen that the wife of the deceased was 26 years. Therefore, this Court does not find any ground to interfere with the age that was fixed by the Tribunal in the absence of any contra evidence available.

10. The next issue pertains to the notional monthly income fixed by the Tribunal. There was no evidence to show the avocation of the deceased and also the monthly income earned by the deceased. The Tribunal has fixed the notional monthly income at Rs.20,000/- per month. This Court holds that the same is on the higher side considering the fact that the accident had taken place in the year 2018. In view of the same, this Court is inclined to fix the notional monthly income at Rs.15,000/- per month and 40% can be added towards future prospects and thereby, the compensation under the head of loss of dependency is calculated as follows:



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Rs.15,000 + Rs.6000 (40%) x 12 x 16 x 2/3 = Rs.26,88,000/-

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

12.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.	Loss of Dependency	26,88,000
2.	Loss of Consortium	44,000
3.	Loss of Love and Affection	88,000
4.	Filial Consortium (Father & Mother)	NIL
5.	Loss of Estate	16,500
6.	Funeral Expenses	16,500
7.	Medical Expenditure	NIL
	Total	28,53,000

13.The compensation awarded by the Tribunal at Rs.37,49,000/- is reduced to Rs.28,53,000/-. The appellant insurance company is directed to deposit the reduced 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 six weeks



N. ANAND VENKATESH., J

ssr

from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.
Consequently, connected miscellaneous petition is closed.

25.06.2024

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

To

The Motor Accident Claims Tribunal, Dharmapuri.

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