



Civil Miscellaneous Appeal No.1544 of 2024

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DATED : 08.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1544 of 2024
and CMP No.13227 of 2024

M/s.Reliance General Insurance Company Limited,
Door No.965, 2nd Floor, Harita Centre,
Avinashi Road, Coimbatore - 641 002

... Appellant

Vs.

1. M.Kulamatha
2. M.Sabarinathan
3. M.Kalidass
4. A.Vallimuthu

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 11.09.2017 in MCOP No.430 of 2014 on the file of MACT (Sub Judge Court), Sathyamangalam.

For Appellant : Mr.K.Moorthy

For Respondents : M/s.R.MAdhubala for
Mr.A.Samson for R1 to R4



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JUDGMENT

The appellant insurance company, aggrieved by the quantum of compensation awarded by the MACT (Sub Judge Court), Sathyamangalam in MCOP No.430 of 2014 dated 11.09.2017, has filed this appeal.

2. The claimants who are the wife, children and mother of the deceased Muniaraj, filed the claim petition on the ground that the deceased Muniaraj on 02.10.2014 was travelling in his two wheeler and at about 6.00 p.m, he approached Muthurayar nagar bus stop and at that point of time, the offending vehicle was driven in a rash and negligent manner and it hit the two wheeler and he sustained fatal injuries and he succumbed to the injuries. An FIR came to be registered in Crime No.143 of 2014 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before this Court seeking for enhancement 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 driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.17,01,250/- 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	13,16,250/-
2.	Loss of consortium for wife	1,00,000/-
3.	Loss of “love and affection” to children	1,80,000/-
4.	Loss of “love and affection” to mother	75,000/-
5.	Car rental bills Ex.P12	5000/-
6.	Funeral expenses	25,000/-
	Total	17,01,250/-

The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

4. Questioning the quantum of compensation awarded by the Tribunal, the appellant insurance company has filed the present appeal.



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5. Heard Mr.K.Moorthy, learned counsel for appellant insurance company and M/s.R.Madhubala for Mr.A.Samon, learned counsel for respondents 1 to 4.

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. There are only two issues that were urged before this Court. The first issue is with regard to the 50% future prospects fixed by the tribunal. The second issue is with regard to the compensation that was awarded by the Tribunal under the head of “loss of consortium” and “loss of love and affection”.

9. In the instant case, there is no dispute with regard to the fact that the deceased was carrying on the avocation as a fisherman and it was claimed by the claimants that he was earning a monthly income of



Rs.9,000/- per month. In view of the same, it is quite evident that the deceased was engaged in an unorganized sector. However, the Tribunal proceeded to add 50% towards future prospects, which can be done only insofar as persons who are engaged in an organized sector and are earning a definite monthly income. In view of the same, only 40% can be added towards future prospects and to that extent, the finding of the Tribunal requires the interference of this Court.

10. In the light of the above discussion, the compensation under the head of loss of income / dependency is calculated as follows :-

$$\begin{aligned}\text{Loss of Income /Dependency} &= \text{Rs.6,500} + 40\%(2600) = \text{Rs.9,100/-} \\ &= 9100 \times 12 \times 15 \times \frac{3}{4} \\ &= 12,28,500/-\end{aligned}$$

11. The next issue pertains to the compensation under the head of “loss of consortium” and “loss of love and affection”. The Tribunal has granted this compensation under three heads. The first head is under the head to consortium to wife to the tune of Rs.1,00,000/-. The second head is under the head of loss of love and affection for the children, who are



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the 2nd and 3rd claimant to the tune of Rs.1,80,000/- and the 3rd head is towards loss of love and affection to the mother to the tune of Rs.75,000/- . The compensation that has been granted under these heads are on the higher side and therefore, this Court is inclined to consolidate all these heads under one head “loss of love and affection” and the total compensation fixed under this head is Rs.1,60,000/- (4 x 40000).

12. The Tribunal has granted a compensation of Rs.25,000/- towards funeral expenses and the same is reduced to Rs.15,000/-. However, the Tribunal has not granted any compensation under the head of loss of estate and this Court is inclined to grant a sum of Rs.15,000/- under this head.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	12,28,500/-



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
2.	Loss of consortium for wife	40,000/-
3.	Loss of “love and affection” to children and mother	1,20,000/-
4.	Car rental bills Ex.P12	5000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
	Total	14,23,500/-

14. The compensation awarded by the Tribunal at Rs.17,01,250/- is reduced to Rs.14,23,500/-. 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 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.

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



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Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
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To,
WEB COM MACT (Sub Judge Court), Sathyamangalam.

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