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C.M.A.No.3565 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3565 of 2024

1.Sundaravalli
2.Sundaram

... Appellants

Vs.

1.Adam Basha
2.United India Insurance Company Ltd.,
TPHUB Peramanur Main Road,
Salem.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in order dated 01.08.2022 made in M.C.O.P.No.925 of 2020 on the file of the MCOP Tribunal, Special District Court, Salem by allowing this civil miscellaneous appeal.

For Appellants : Mr.S.P.Yuaraj
For Respondents : Mr.J.Chandran for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the judgment and decree dated 01.08.2022 made in



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M.C.O.P.No.925 of 2020 on the file of the MCOP Tribunal, Special District Court, Salem.

2.The learned counsel appearing for the appellants submitted that on 07.05.2020 at about 09.30 p.m., the deceased Gopi along with his friend Veeramuthu were going in the Covai to Aanaikatty Road, the car bearing Registration No.TN-38-BK-0654 which came behind the deceased in a rash and negligent manner, hit the deceased and Veeramuthu, due to which, the deceased lost his life and the said Veeramuthu died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the parents of the deceased Gopi/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.25 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.11,45,000/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with proportionate costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.



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4.The learned counsel appearing for the appellants further submitted that the accident is of the year 2020 and a sum of Rs.17,000/- ought to have been fixed as the notional monthly income of the deceased, however, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/- including 40% future prospects and awarded a meagre compensation for loss of income and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the



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quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.10,80,000/- for loss of income, Rs.40,000/- for loss of love and affection, Rs.25,000/- for funeral expenses and arrived at a total compensation of Rs.11,45,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

9.The accident is of the year 2020 and the deceased is a bachelor aged 24 years at the time of death. Even in the absence of any income proof, for the relevant period a sum of Rs.17,000/- ought to have been fixed as the notional monthly income of the deceased. Hence, this Court fix a sum of Rs.17,000/- as the notional monthly income of the deceased. The Tribunal has rightly awarded 40% of the monthly income for future prospects and has rightly deducted ½ of the amount towards personal expenses and has rightly adopted the multiplier 18. Hence, the amount awarded for loss of income works out to Rs.25,70,400/- [$\text{Rs.17,000/-} \times 40\% = \text{Rs.6,800/-}$; $\text{Rs.17,000/-} + \text{Rs.6,800/-} = \text{Rs.23,800/-}$; $\text{Rs.23,800/-} \times \frac{1}{2} = \text{Rs.11,900/-}$; $\text{Rs.23,800/-} - \text{Rs.11,900/-} = \text{Rs.11,900/-}$; $\text{Rs.11,900/-} \times 12 \times 18 =$



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Rs.25,70,400/-].

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10.This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, a sum of Rs.15,000/- is awarded for loss of estate. The amount awarded under the head loss of love and affection, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of love and affection is enhanced to Rs.80,000/- from Rs.40,000/-. The amount awarded under the head funeral expenses, in the opinion of this Court is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded for funeral expenses is reduced to Rs.15,000/- from Rs.25,000/-.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.10,80,000/-	Rs.25,70,400/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-
3.	Loss of estate	---	Rs. 15,000/-
4.	Loss of love and affection	Rs. 40,000/-	Rs. 80,000/-
	Total	Rs.11,45,000/-	Rs.26,80,400/-



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12.The claimants are entitled to total compensation of Rs.26,80,400/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 01.08.2022 made in M.C.O.P.No.925 of 2020 on the file of the MCOP Tribunal, Special District Court, Salem, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation



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amount, if required. The MCOP Tribunal, Special District Court, Salem, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

15.The civil miscellaneous appeal is partly allowed. No costs.

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

To

1.The MCOP Tribunal, Special District Court,
Salem.



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M.DHANDAPANI,J.
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