

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 1418 of 2010

1. R. Karpagavalli
 2. R. Deepa (Minor)
rep. by mother & next friend 1st Petitioner
 3. R. Ambujam
 4. Raman
- ...Appellants/Petitioners

..Vs..

1. Mr. T. Ravichandran
 2. ICICI Lombard General Insurance Co.Ltd.,
Chotabhai Centre, 2nd & 3rd Floors
140 Nungambakkam High Road
Chennai - 600 034.
- ...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, against the Judgment and decree dated 24.02.2010 made in MACTOP No. 3432 of 2007 on the file of the Chief Judge, Small Causes Court (Motor Accidents Claims Tribunal) Chennai.

For Appellants : Mr. N.M. Muthurajan
For Respondents : M/s. R. Sree Vidhya for R2
R1 - Exparte

J U D G M E N T

The claimants, who are the widow, minor child and parents of one Rengarajan, who was the fatal accident victim, are the appellants herein.

2. The present appeal is filed seeking enhancement of compensation of Rs.6,35,000/- awarded by the Tribunal against the total claim of Rs.17,00,000/-. For the sake of convenience the parties are ranked as stated before the Tribunal. The Tribunal having found that the driver of the vehicle, insured with the second respondent, is responsible for the accident and having found that the deceased was aged about 28 years and the monthly income earned by him was Rs.4500/- and after deducting 1/3rd of the same towards his personal expenses, determined the loss of dependency of the claimants and accordingly awarded the compensation of Rs.6,35,000/- as follows :-

Sl.No	Heads	Amount granted
1	Funeral Expenses	Rs. 2,000.00
2.	Loss of Consortium to the 1 st petitioner/ wife	Rs. 10,000.00
3.	Loss of companionship to the other petitioners	Rs. 6,000.00
4.	Loss of expectation of life	Rs. 5,000.00
5.	Loss of pecuniary benefits and loss of estate of the deceased	Rs. 6,12,000.00
	Total	Rs. 6,35,000.00

3. The learned counsel for the claimants/ appellants would, in this appeal, contend that the compensation awarded under all the heads above stated is too low and inadequate and is not just to compensate the loss sustained, sufferings undergone by the claimants, on account of the death of the head of the family. It is contended before this Court that there shall be reasonable enhancement of compensation awarded under all the heads, stated above.

4. Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the records.

5. This Court considering the nature of the evidence available herein and accepting the findings of the Tribunal on material aspects, is of the view that the compensation awarded by the Tribunal under the heads above referred to, is not just and fair and the same requires enhancement and this Court is hence inclined to enhance the compensation as follows :

Sl.No	Heads	Amount granted
1	Damage to clothing and articles	Rs. 1,000.00
2	Funeral Expenses	Rs. 15,000.00
3.	Loss of Consortium to the 1 st petitioner	Rs. 1,00,000.00
4.	Loss of love and affection to the minor	Rs. 1,00,000.00
5.	Loss of love and affection to parents	Rs. 50,000.00
6.	Loss of expectation of life	Rs. 5,000.00
7.	Transport Expenses	Rs. 10,000.00
8.	Loss of future dependency	Rs. 6,12,000.00
	Total	Rs. 8,93,000.00 rounded off Rs. 8,95,000.00

The total compensation is enhanced to Rs.8,95,000/- and the same is payable with interest at the rate of 7.5 % per annum.

6. In the result, the compensation of Rs.6,35,000/- is enhanced to Rs.8,95,000/- payable with interest at the rate of 7.5% per annum from the date of petition till the date of payment. The second respondent Insurance Company is directed to deposit the entire award amount, with interest and cost, less the amount already deposited, within four weeks from the date of receipt of a copy of this order. Out of the total compensation amount, the claimants 1 to 4 are entitled to get Rs.5,00,000/-, Rs.2,00,000/-, Rs.1,00,000/- and Rs.95,000/- respectively. On such deposit, the claimants 1, 3 & 4 are entitled to withdraw 50% of the compensation amount with entire interest and proportionate cost and the balance amount shall be invested in any one of the Nationalised bank for three years and the petitioners 1, 3 and 4 are permitted to withdraw the interest accrued therein, once in three months, directly from the bank. The second claimant, being a minor, her share shall be deposited in any one of the nationalised bank till she attains majority and the first claimant/ mother, is permitted to withdraw the interest and cost accrued on the same, once in three months, directly from the Bank. The Civil Miscellaneous Petition is accordingly allowed. No costs.

avr

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Chief Judge,
Small Causes Court
(Motor Accidents Claims Tribunal)
Chennai.
 2. The Section Officer,
VR Section, High Court, Madras.
- + 1 cc to M/s.R.Sree Vidhya, Advocate SR 43404
- + 2 ccs to Mr.N.M.Muthuraja, Advocate SR 43104

cnr(co)
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