

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.1486 of 2015

1. Gomathi
2. Padmanabhan

... Appellants/Petitioners

vs.

1.Amsavalli
2.United India Insurance Co.
134 Grems Road,
Chennai - 2.

... Respondents / Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award and decree passed by the Motor Accidents Claims Tribunal, (Chief Judge, Small Causes Court), Chennai dated 22.12.2014 and made in MCOP No.4725 of 2013.

For Appellant : Mr.S.Udhayakumar
For Respondents : Mr.D.Baskaran for R2

JUDGMENT

The appeal has been preferred by the parents of the deceased against the award of Rs.3,80,000/- awarded by the tribunal as compensation for the death of their son Pawan, aged about 8 years who died in the accident occurred on 19.04.2013.

2. Heard Mr.S.Udhayakumar, learned counsel appearing for the appellants/claimants and Mr.D.Baskaran, learned counsel appearing for the second respondent/insurance company.

3. The tribunal, taking into consideration notional annual income of the deceased at Rs.30,000/- and deducting 1/3rd towards personal expenses and applying multiplier 15, determined the loss of income at Rs.3,00,000/-. Towards loss of love & affection a sum of Rs.25,000/- each is awarded to the appellants. Rs.25,000/- and Rs.5,000/- was awarded towards funeral expenses and transport expenses, respectively totalling to a sum of Rs.3,80,000/- as compensation. In a similar circumstances, the Hon'ble Supreme Court in Kishan Gopal & another vs. Lala & others reported in 2013 (2) TN MAC 358 (SC), took Rs.30,000/- as the annual notional income and

adopting multiplier applicable to the age of the mother of the deceased, awarded a sum of Rs.4,50,000/- towards loss of dependency. Towards non-conventional damages, Rs.50,000/- was awarded. In the above said judgment, 1/3rd was not deducted towards personal expenses, taking into consideration the fact that the deceased was a minor at the time of accident.

4. Even though it is stated that the deceased was aged 5 years old, Ex.P7-Post mortem certificate reveals that the minor was aged about 7 years old. Without deducting 1/3rd towards personal expenses, this court, following the judgment cited supra in Kishal Gopal & another, awards a sum of Rs.4,50,000/- towards loss of dependency and Rs.50,000/- under non-pecuniary heads totalling Rs.5,00,000/- as compensation to the appellants/claimants. The rate of interest awarded by the tribunal @ 7.5% per annum shall remain unaltered.

5. In the result, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.3,80,000/- to Rs.5,00,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs.

6. The 2nd respondent/insurance company is directed to deposit the entire amount awarded by this court, alongwith interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw their respective shares on the basis of ratio fixed by the tribunal, less the amount already withdrawn, if any.

rgr

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Chief Judge,
(Motor Accidents Claims Tribunal)
Small Causes Court,
Chennai.

+ 1 cc to Mr.S.Udayakumar, Advocate SR 37510

+ 1 cc to Mr.D.Bhaskaran, Advocate SR 37450

gr(co)
prk15/9

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