

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 339 of 2015

1. Radha Rukkumani
2. Minor Ranjith kumar
3. Minor Lokesh
(Minors 2 and 3 rep. By guardian and mother, the 1st appellant)
4. Neelawathi ..Appellants/Claimants

Vs.

1. Elimalai
2. The Divisional Manager,
The United India Insurance Co. Ltd.,
No.46, Cotpady Road,
Vellore. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed against the judgment and decree dated 30.08.2005 passed in MACT O.P. No. 576/2003 by the Motor Accidents Claims Tribunal, District Judge, Thiruvannamalai.

For Appellants :: Mr.F. Terry Chellaraja

For Respondents:: Mr.C. Parandaman for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants aggrieved over the award of Rs.2,79,000/- passed by the Motor Accidents Claims Tribunal, (District Judge), Thiruvannamalai, for the death of one Palani, aged about 30 years, a mason, claimed to have earned Rs.6000/- per month, in the accident, which occurred on 25.05.2003 when he was hit by a two-wheeler belonging to the 1st respondent and insured with the 2nd respondent, driven rashly and negligently, while he was waiting at the bus stop.

2. Heard Mr.F. Terry Chellaraja, learned counsel for the appellant and Mr.C. Parandaman, learned counsel for the 2nd respondent.

3. The only question in issue before this Court is with regard to the quantum of compensation awarded by the Tribunal.

4. The Tribunal took Rs.80/- as the daily wage earned by the deceased and determined Rs.2000/- as the monthly income. The said amount appears to be too meagre. It was very difficult even to hire a servant maid for a sum of Rs.2000/- in 2003. Besides, the Honourable Apex Court, in the absence of any proof regarding the income, determined Rs.3000/- as the monthly income of the deceased after deduction towards personal expenses, in the judgment rendered in New India Assurance Company Limited V. Smt.Kalpna and Others reported in 2007 (1) Supreme 514. Therefore, following the said judgment, this Court re-determines Rs.3000/- as "monthly contribution to the family" after deduction towards personal expenses. Applying multiplier 17, as rightly adopted by the Tribunal, "Loss of Income" is arrived at as follows:

Monthly Contribution of the deceased to his family	:: Rs.3000/-
Annual Contribution	:: Rs.3000 x 12
Applying multiplier 17,	
Loss of Income	:: Rs.3000 x 12 x 17
	:: Rs.6,12,000/-

As far as the amounts awarded under other heads are concerned, only a sum of Rs.5000/- was awarded towards "Loss of Consortium" to the 1st appellant herein, which is meagre and negligible. Therefore, the said amount is enhanced to Rs.50,000/-. The amounts awarded towards "Funeral Expenses" namely, Rs.2000/- stand confirmed. Towards "Loss of love and affection", a sum of Rs.75,000/- is awarded to appellants 2 to 4. Since the victim did not die immediately after the accident, towards "Pain and Suffering", some amount has to be paid and accordingly, a sum of Rs.25,000/- is awarded under the said head. In all, the compensation payable to the appellants is Rs. 7,64,000/- rounded off to Rs.7,50,000/-. The rate of interest awarded by the Tribunal, at 7.5% per annum, remains unaltered. However, it is made clear that the appellants will not be entitled to any interest from the date of award till the date of filing of the appeal, excluding the period of limitation.

5. The 2nd respondent is directed to deposit the entire amount, as per the modified award passed by this Court, along with interest and costs, before the Tribunal, after deducting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st and the 4th appellant would be entitled to Rs.1,42,500/- and Rs.67,500/- respectively and they are permitted to withdraw the same. As far as the minors' shares are concerned, namely, a sum of Rs.2,70,000/- each, the Tribunal is directed to deposit the same in interest bearing Fixed Deposit, in any one of the Nationalised Banks, till they attain majority. The 1st appellant is permitted to withdraw interest accruing on such deposit once in three months. The appellants are directed to pay appropriate court-fee for the enhanced amount.

6. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The District Judge (MACT),
Thiruvannamalai.

+1 cc to Ms.M.Malar, Advocate, SR.9838

+1 cc to Mr.C.Parandhaman, Advocate, SR.9835.

Krd 17/6

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