

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:

DATED: 29.01.2015

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.3887 of 2011 and M.P.No.1 of 2014

1. Kumar
2. Usha Rani

...Appellants/Claimants

Vs

- 1) Backiyalakshmi

- 2) The Divisional Manager
The Oriental Insurance Co., Ltd.,
No.75, Krishnan Street,
Thiruvannamalai

...Respondents/Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed Section 173 of the Motor Vehicles Act against the Judgment and decree dated 17.04.2007 made in MACT.O.P.No.581 of 2006 on the file of Motor Accidents Claims Tribunal, District Judge, Thiruvannamalai.

For Petitioners : Mr.F.Terry Chellaraja

For Respondents : Mrs.G.sukumari for R2
R1 Exparte

J U D G M E N T

This Appeal has been preferred by the parents of Minor Kalaiyarasi, who died in the accident which occurred on 29.04.2006 when she was standing in the margin of the street and hit by lorry belonging to the 1st respondent, insured with the 2nd respondent, driven in a rash and negligent way, therefore the claim petition.

2.On contest, the Tribunal found that the lorry was driven in a rash and negligent way and awarded a sum of Rs.1,61,000/- as compensation. The said award is now challenged by the claimants on the question of quantum.

3.Heard Mr.F.Terry Chellaraja, learned counsel for the appellant and Mrs.G.Sukumari, learned counsel appearing for the 2nd respondent.

4.The Tribunal considering the victim's age, as 18, determined a monthly income of Rs.3,000/- and after deduction took Rs.2,000/- as contribution as per age of the parents adopted multiplier '6' and awarded Rs.1,44,000/-. However, notional income of the non-

earning member was fixed at Rs.15,000/- . The Hon'ble Supreme Court in Kishan Gopal and another vs. Lala and others reported in (2013) 5 CTC 212 took Rs.30,000/- as notional yearly income of the deceased and by adopting multiplier as per age of the mother Rs.4,50,000/- was awarded towards loss of income. Following the said judgment, this Court takes Rs.30,000/- as annual notional income Since the age of mother is 32, the proper multiplier is '16' as per Sarla Verma and others Vs. Delhi Transport Corporation and others reported in 2009, 4 MLJ 997 and therefore, loss of income would be Rs.30,000/- X 16= Rs.4,80,000/-

5.As far as amount awarded under other heads are concerned, Rs.50,000/- was awarded in the said Judgment, following the same Rs.50,000/- is awarded. Total sum of Rs.5,30,000/- is awarded towards loss of income by enhancing compensation from Rs.1,61,000/-. The rate of interest 7.5% remains unaltered. It is made clear that the claimants are not entitled to interest for the delay period.

6.The 2nd respondent is directed to deposit the entire amount along with interest and cost as per modified award passed by this Court within a period of four weeks from the date of receipt of copy of this order and on such deposit of entire amount, the claimants are permitted to withdraw the amount within a period of one week thereafter. Consequently connected miscellaneous petition is closed. This appeal is partly allowed on the above terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

The Motor Accident Claims Tribunal, District Judge,
Thiruvannamalai.

Copy to:The Section Officer, V.R.Section, High Court, Madras

1 cc to Mr. M.Malar,Advocate, SR.No.4862/15

1 cc to Mr. R.Sivakumar,Advocate, SR.No.4610/15

C.M.A.No.3887 of 2011 and
M.P.No.1 of 2014

sv (co)

pmk.1.4.2015