

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.3586 of 2014

1.Tmt.Desapattu
2.Yadhavamoorthy
3.Venugopal
4.Mythili
5.Prabhu

... Appellants/Petitioners

vs.

1.S.Rajarajeshwari

2.The National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai -600 002.

... Respondents / Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the judgment and decree dated 05.06.2013 and made in MACTOP No.377/2010 on the file of the Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai.

For Appellants : Mr.V.Velu

For Respondents : Mr.D.Bhaskaran for R2

JUDGMENT

The appeal has been preferred by the claimants aggrieved over the quantum of Rs.7,82,000/- granted as compensation for the death of one Manoharan, aged 48 years, a mason stated to be earning a sum of Rs.10,000/- per month.

2. Heard Mr.V.Velu, learned counsel appearing for the appellants/claimants and Mr.D.Bhaskaran, learned counsel appearing for the second respondent/insurance company.

3. The accident had occurred on 03.01.2010. Even in the year 2010, it is very difficult to get a manual labourer for Rs.6,000/- per month and therefore the monthly income fixed by the tribunal is on the lower side. Hence, following the judgment of the Hon'ble Supreme Court in Rajesh & Ors. vs. Rajbir Singh & ors. reported in 2013 (3) CTC 883, the monthly income including future

prospects is determined at Rs.7,500/-. 1/3rd is required to be deducted towards personal expenses and the loss of income per month would be Rs.5000/- (7500 less 1/3rd). The appropriate multiplier to be adopted is 13 and the loss of income is arrived at Rs.7,80,000/- (Rs.5000 x 12 x 13).

4. The amount of Rs.10,000/- awarded by the tribunal towards funeral expenses is too low and hence the same is enhanced to Rs.20,000/-. Similarly, Rs.40,000/- awarded towards love and affection is enhanced to Rs.1,00,000/- and Rs.30,000/- awarded towards loss of consortium is enhanced to Rs.50,000/-. Thus, the award of Rs.7,80,000/- is enhanced to Rs.9,50,000/-, break-up as follows -

(1) Pecuniary loss	...	Rs.7,80,000/-
(2) Loss of consortium	...	Rs. 50,000/-
(3) Funeral expenses	...	Rs. 20,000/-
(4) Loss of love & affection		Rs.1,00,000/-

Total	...	Rs.9,50,000/-
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5. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

6. The 2nd respondent/insurance company is directed to deposit the enhanced compensation alongwith interest at the rate of 7.5% from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw their share amount on the basis of ratio fixed by the tribunal.

Sd/-

Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

rgr

To

The VI Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.

1 cc to Mr.V.Velu, Advocate, Sr. 26362
1 cc to Mr.D.Bhaskaran, Advocate, Sr. 26310

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RJ (CO)
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