

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.NO. 840 of 2016

1.Chinnaraju
2.Rajeskannan
3.Rajasekar (minor)
4.Manivannan (minor)
5.Rajeswari
(minors 3 & 4 are represented
by their father Chinnaraju) ..Petitioners/Appellants

Vs.

1.M.Rajini
2.The Oriental Insurance Company Ltd.,
Branch Office, Divya Towers,
Kottai Main Road, Salem-636 001. .. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and decretal order dated 06.08.2015 made in M.C.O.P No.2370 of 2010 on the file of the Motor Accidents Claims Tribunal, Special District Judge, Salem.

For Appellants : Mr. S.P.Yuvaraj

For Respondents : Mr. J.Chandran

J U D G M E N T

The appellants have come forward with the present appeal, seeking enhancement of compensation, aggrieved by the lesser compensation of Rs. 6,19,000/- awarded by the Special District Judge, (Motor Accidents Claims Tribunal) Salem, in M.C.O.P No.2370 of 2010, on 06.08.2015.

2. On 06.09.2010 at about 9.00 a.m., when the deceased Rajammal was walking on the left side of the road near Kuppur Bus Stand on Dharmapuri to Omalur Main Road, the driver of the Discover Motor Cycle bearing Reg. No.TN-24-H-4387 came from Dharmapuri in a high speed and dashed against the said Rajammal on her back. Due to this impact, she sustained head injury and multiple injuries all over the body. Immediately, she was taken to Government Hospital, Omalur for treatment. On examination, the Doctors therein declared that she died on the way to hospital. The claim Petition in MCOP No.2370 of 2010 was filed by her husband, three sons and one daughter, before the Tribunal, seeking a sum of Rs.20,00,000/- as compensation.

3. After analyzing the available oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Heads	Amount granted by the Tribunal
1	Loss of Income	Rs.5,04,000/-
2	Funeral Expenses	Rs. 25,000/-
3	Loss of Companion ship to 1st appellant	Rs. 20,000/-
4	Loss of love and affection to Appellants 3 & 4	Rs. 20,000/-
5	Loss of love and affection to Appellants 2 & 5	Rs. 50,000/-
	Total	Rs. 6,19,000/-

4. Learned counsel for the appellants contended that the Tribunal has determined the age of the deceased at 45 years and fixed a sum of Rs.6,000/- as monthly income of the deceased and rightly adopted the multiplier '14'. However, the Tribunal, while computing the loss of income, instead of deducting 1/3rd towards personal expenses from the monthly income of the deceased, has reduced 50% and arrived at Rs.5,04,000/- and further submitted that the compensation under the head 'loss of income' should be enhanced to Rs.6,24,000/- from Rs.5,04,000/-. The deceased was weaving mat and was earning not less than Rs.10,000/- per month. He further contended that the Tribunal has failed to grant the future prospects. The Tribunal has awarded a meagre sum towards loss of companionship and hence, the appellants seek enhancement in this appeal.

5. Per contra, learned counsel appearing for the respondent/Insurance Company submitted that the Tribunal has rightly awarded the compensation and he sought for dismissal of the above Civil Miscellaneous Appeal.

6. This Court considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. On a perusal of the records, it is seen that the Tribunal has wrongly deducted 50% towards personal expenses instead of 1/3rd from the income of the deceased. As per Sarla Verma judgement, for the age of 45, the multiplier '14' is required to be adopted, which was rightly adopted by the Tribunal. Hence, the loss of income is determined as follows:

$$\text{Rs.}6000 \times \frac{1}{3} = 4000 \times 12 \times 14 = 6,72,000/-$$

8. The Tribunal has awarded a sum of Rs.25,000/- towards loss of companion ship to the first appellant. It is very unfortunate that the first appellant, who has lost his wife, is affected a lot mentally and physically. Therefore, following the judgment of the Hon'ble Supreme Court in the case of RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS, 2013 (3) CTC 883 S.C, this court awards a sum of Rs.50,000/- towards loss of companion ship to the first appellant. The appellants 3 and 4, minors aged about 14 and 16 years respectively, who have lost their mother's love and affection throughout their life is awarded a sum of Rs.50,000/- each instead of Rs.20,000/-. For appellants 2 and 5, major son and daughter, who have lost their mother's love and affection throughout their life, is awarded Rs.35,000/- each instead of Rs.25,000/- and Rs.25,000/- fixed by the Tribunal for funeral expenses is confirmed as unaltered.

9. The details of enhanced compensation of this Court are as follows :-

Sl No	Heads	Amount granted by the Tribunal
1	Loss of Income	Rs. 6,72,000/-
2	Funeral Expenses	Rs. 25,000/-
3	Loss of Companion ship to 1st appellant	Rs. 50,000/-
4	Loss of love and affection to Appellants 3 & 4	Rs.1,00,000/-
5	Loss of love and affection to Appellants 2 & 5	Rs. 70,000/-
	Total	Rs.9,17,000/-

The rate of interest awarded by the Tribunal at 7.5% per annum does not warrant any interference and hence remains unaltered.

10. Accordingly, the award of the Tribunal is enhanced and the appellants/claimants are entitled to a sum of Rs.9,17,000/- as compensation. Since there is no objection in respect of the interest granted by the Tribunal at 7.5% per annum, the same is confirmed and the Civil Miscellaneous Appeal is allowed. The second respondent/ Insurance Company is directed to deposit the entire enhanced award amount passed by this Court to the credit of M.C.O.P No.2370 of 2010 on the file of the Special District Judge, Salem, within a period of six weeks from the date of receipt of copy of this order. On such deposit, the Tribunal shall pay compensation to the major claimants in the form of a crossed Account Payee Cheque, favouring only the claimants and it should not be issued in favour of any other person/Company. It is needless to mention that the proportionate share of the minor respondents/claimants shall be deposited in any one of the Nationalised Banks initially under reinvestment scheme for a period of three years, renewable thereafter periodically and the interest accrued thereon shall be withdrawn by their natural guardian, once in three months, till the minors attain majority. In the case of minor claimants, the

proportionate share of the award amount shall be paid to them in the form of a crossed Account Payee Cheque, once they attain majority. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To :

1.The Special District Judge,
Salem.

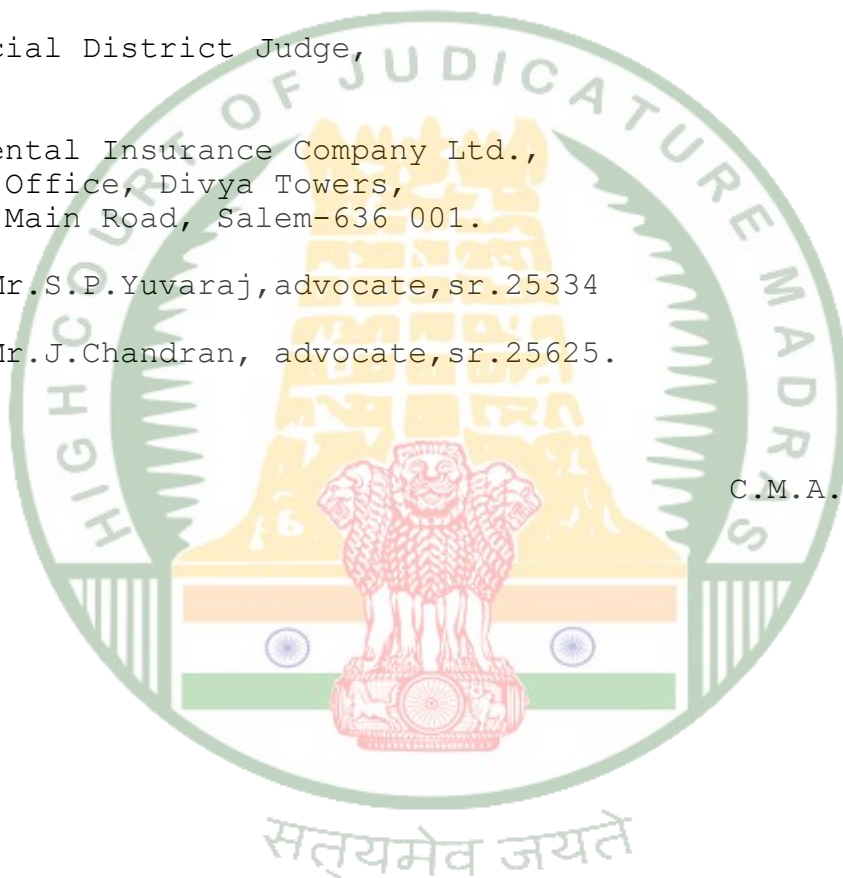
2.The Oriental Insurance Company Ltd.,
Branch Office, Divya Towers,
Kottai Main Road, Salem-636 001.

+1 cc to Mr.S.P.Yuvaraj, advocate, sr.25334

+1 cc to Mr.J.Chandran, advocate, sr.25625.

sr(co)
krd 17/8

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