



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA (MD) No.1465 of 2006

1) R.Nagarathinam

2) R.Sumathi

... Appellants/Petitioners

vs.

1) T.Valli

2) United India Insurance Co.,
through its Branch Manager,
Pondicherry-605 001.

3) A.Ayyanar
(R3-Given up)

... Respondents/Respondents

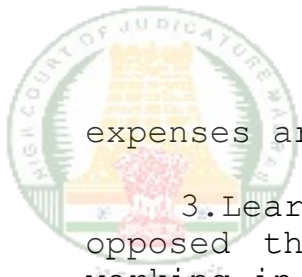
Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 27.04.2004 made in MCOP.No.1776 of 2001 on the file of the First Additional District Judge, Motor Accident Claims Tribunal, Madurai.

For Appellants : Mr.S.Subbiah
For R2 : Mr.S.Muthal Raj

JUDGMENT

It is the unfortunate case of fatal accident took place on 06.11.2000 around 14.15 hours on Cuddalore-Pondy main road. The legal heirs of the deceased filed an application seeking compensation before the First Additional District Judge, Motor Accident Claims Tribunal, Madurai, and the Tribunal considering the facts and the circumstances of the case, awarded Rs.1,55,000/- as total compensation with interest at 9% per annum. Challenging the award, the appellants/claimants preferred this appeal, seeking enhancement of compensation.

2.Learned counsel for the appellants contended that the monthly income fixed by the Tribunal is very meagre and in fact, the deceased was working as a Chef in a Non-Vegetarian Hotel and was drawing salary of Rs.4,500/- per month. Further, the amount of compensation awarded under the heads loss of consortium and funeral



expenses are also very meagre and requires enhancement.

3. Learned counsel for the 2nd respondent insurance company opposed the grounds of appeal, by stating that the deceased was working in Muniyandi Vilas as per the deposition and evidence and he was drawing Rs.150/- per day. Though salary certificate of the deceased was marked as Ex.P4, the author of Ex.P4 was not examined.

4. Such contentions of the insurance company need not be considered at this point of time, in view of the fact that author of Ex.P4 has given this salary certificate which was produced before the Tribunal. Such being the factual position, this Court is not inclined to doubt Ex.P4, since the deceased was working as Chef and earned Rs.150/- per day which cannot be termed as excessive salary or otherwise.

5. Heard both sides.

6. Considering the arguments advanced by the counsels for both the appellants and the 2nd respondent, this Court is of the opinion that the monthly income of Rs.2,000/- fixed by the Tribunal is definitely inadequate, considering the fact that the deceased was working as Chef in a Non Vegetarian Hotel. Further, this Court has to consider the admitted amount of salary at Rs.4,500/-. Such being the situation, this Court is inclined to fix the monthly income of the deceased as Rs.3,000/- and after deducting 1/3rd towards the personal expenses of the deceased and applying '8' multiplier, the loss of income works out to Rs.1,92,000/- (Rs.3000X12X8X1/3). Considering the age of the wife of the deceased namely, 40 years at the time of accident, the award of Rs.5,000/- towards loss of consortium, is enhanced to Rs.20,000/-. The award of Rs.2,000/- towards funeral expenses is increased to Rs.10,000/- and Rs.20,000/- awarded towards loss of love and affection is enhanced to Rs.30,000/-. Resultantly, the total compensation is modified as hereunder:-

Loss of income	=	Rs.1,92,000/-
Loss of consortium	=	Rs. 20,000/-
Loss of love and affection	=	Rs. 30,000/-
Funeral expenses	=	Rs. 10,000/-

Total	=	Rs.2,52,000/-
(Less) Amount awarded by the Tribunal	=	Rs.1,55,000/-

Enhanced compensation	=	Rs. 97,000/-

7. In the result, the appellants/claimants are entitled to enhanced compensation of Rs.97,000/- with interest at 6% per annum from the date of petition to till the date of deposit, in addition to the award of the Tribunal. The 2nd respondent insurance company is directed to deposit the modified compensation of Rs.2,52,000/-



with proportionate accrued interest and costs to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposits, the appellants/claimants are permitted to withdraw the same in the ratio apportioned by the Tribunal, through RTGS, by filing necessary applications before the Tribunal.

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

Sd/-
Assistant Registrar (Accounts)

/True Copy/

Sub Assistant Registrar

To

The First Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

Copy To:-

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.S.SUBBIAH, ADVOCATE IN SR No. 72902
+ 1 CC TO Mr.M.MUTHALRAJ, ADVOCATE IN SR No. 72342

NBI
TE/SS2-KSM : 19/01/2017 : 3P/5C

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