

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

CMA.No.1077 of 2017

Saroja

... Appellant/Petitioners

Vs.

1. C.Sekar

2. United India Insurance Co. Ltd.,
38, Anna Salai, Chennai - 600 002

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 12.06.2013 made in M.C.O.P.No.3805 of 2000 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.J.Ramkumar

For Respondent-2 : Mr.Krishnamoorthy

JUDGMENT

This appeal arises out of the order passed in M.C.O.P.No.3805 of 2000 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

2. This is a case of fatal injury. On 25.12.1999 at about 2.30 hours, while the deceased was travelling in an Autorickshaw bearing Reg.No.TN-20-K-6594 from Thuraipakkam towards Sholinganallur near Annai Indra Nagar Old Mahabalipuram Road, a lorry bearing Regn.No.TMS 5166 came in a rash and negligent manner and hit against the auto, due to which, she sustained fatal injuries. Hence, the parents of the deceased approached the Tribunal with a claim for Rs.5,35,000/-, as compensation, against which, the Tribunal has passed an award for Rs.2,55,000/- payable with interest @ 7.5% per annum on the following heads.

Heads	Amount (in Rs.)
Loss of Income (Rs.15,000 x 15)	2,25,000/-
Funeral expenses	10,000/-

Heads	Amount (in Rs.)
Love and affection	20,000/-
Total	2,55,000/-

3. The learned counsel for the Claimants would contend that the total amount of compensation awarded by the Tribunal is very low and the same needs to be enhanced.

4. Heard the learned counsel for the appellants and the learned counsel for the second respondent-Insurance Company and perused the materials available on record.

5. A perusal of the award would go to show that as per the evidence of P.W.1, the deceased was aged about 13 years at the time of accident. Since the deceased was a minor, the Tribunal has fixed a sum of Rs.15,000/- as notional income and by adopting the multiplier 15, a sum of Rs. 2,25,000/- was awarded under the head "loss of income". It is submitted by the learned counsel for the appellants that the Tribunal has considered the age of the deceased as 13 years at the time of accident and fixed the income as Rs.15,000/- per year, which is very low and the same may be enhanced. Considering the fact that the deceased was aged about 13 years, this Court feels it appropriate to fix the annual income as Rs.20,000/- and therefore a sum of Rs.3,00,000/- (Rs.20,000 x 15) is awarded under the head "loss of income". So far as the award under the head "Funeral expenses" is concerned, this Court feels it appropriate to enhance the amount awarded by the Tribunal from Rs.10,000/- to Rs.25,000/-. The Tribunal has awarded a sum of Rs.20,000/- under the head "Love and affection" and the same is enhanced to Rs.50,000/-. Accordingly, the compensation awarded by the Motor Accident Claims Tribunal is revised as follows:-

Heads	Amount (in Rs.)
Loss of Income (Rs.20,000 x 15)	3,00,000/-
Funeral expenses	25,000/-
Love and affection	50,000/-
Total	3,75,000/-

6. According, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced from Rs.2,55,000/- to Rs.3,75,000/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment. The second respondent-Insurance Company is directed to deposit the said amount within a period of four weeks from

the date of receipt of a copy of this judgment and the claimants are entitled to withdraw the same forthwith. The claimant is entitled to the above compensation amount, after excluding the interest for the period from 07.10.2010 to 02.04.2012 being the period of dismissal of default period of the claim petition before the Court below. The claimants are directed to pay the necessary Court fee, if any, for the enhanced portion of the award amount. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Motor Accident Claims Tribunal,
VI Court of Small Causes, Chennai.
2. The Record Keeper,
VR Section,
High Court, Madras.

+1cc to M/S.J.Ramkumar, Advocate Sr. 19187
+1cc to M/S.M.Krishnamoorthy, Advocate Sr. 19323

CMA.No.1077 of 2017

MP (CO)
VR(23/06/2017)

सत्यमेव जयते

WEB COPY