

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1092 of 2016

1. Manimekalai
2. Karthika
3. Gomathi

.. Appellants/Petitioners

versus

1. D.Ramkumar
2. M/s.The New India Assurance  
Company Limited,  
Sri Vari Shopping Mall,  
Near ARRS Theatre, Meyyanur,  
Salem - 4.

.. Respondents/Respondents

Prayer: This appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.06.2015, made in M.C.O.P.No.2160 of 2011 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

For Appellants : Mr.T.Ananthasekar  
For R1 : No appearance  
For R2 : Mr.S.Manohar

JUDGMENT

The deceased, M.Govindaraj, aged about 45 years, an Agriculturist and milk vendor, earning a sum of Rs.15,000/- per month, died in an accident that took place on 26.10.2011. The legal representatives, namely, wife, son and daughter of the deceased filed a claim petition in M.C.O.P.No.2160 of 2011 before the Motor Accident Claims Tribunal, Special District Judge, Salem, claiming compensation of Rs.15,00,000/-.

2. Considering the oral and documentary evidence placed before it, the Tribunal awarded a sum of Rs.7,38,560/- as compensation, payable with interest at the rate 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation read as follows:

|                                                                 |   |               |
|-----------------------------------------------------------------|---|---------------|
| Loss of dependency                                              | - | Rs.6,33,560/- |
| Loss of consortium                                              | - | Rs. 30,000/-  |
| Loss of love and affection<br>to the children (Rs.25,000/-each) | - | Rs. 50,000/-  |
| Funeral expenses                                                | - | Rs. 25,000/-  |
|                                                                 |   | -----         |
| Total                                                           | - | Rs.7,38,560/- |
|                                                                 |   | -----         |

3. Challenging the quantum of compensation as inadequate, the claimants have filed this appeal.

4. The learned counsel appearing for the appellants submit that the future prospective increase in income has not been taken into account. Learned counsel submitted that 15% increase in future prospective increase in income ought to have been considered by the Tribunal while quantifying compensation. It is further submitted by the learned counsel for the appellants that no amount has been awarded under the head transportation. It is further submitted that the Tribunal has awarded Rs.25,000/- to each child under the head loss of love and affection, which is also on the lower side and requires enhancement.

5. This Court is of the considered view that the contentions advanced by the learned counsel for the appellants are well founded and merits acceptance. The Tribunal has fixed the monthly income of the deceased at Rs.8,000/-. Therefore, adding 15% increase towards future prospective increase in income and deducting 1/3<sup>rd</sup> towards personal expenses, the contribution of the deceased to the family per month Rs.6,133/- (Rs.8000 + 15% - 1/3), rounded off Rs.6,200/-. Adopting the multiplier of 11, the loss of dependency would be Rs.8,18,400/- (Rs.6,200 x 12 x 11).

6. Insofar as compensation under the head transportation is concerned, no amount has been awarded by the Tribunal. This Court, in the circumstances of the case, feels that an amount of Rs.10,000/= as compensation under the head transportation expenses would be just and reasonable.

7. Further, this Court is also of the considered opinion that the amount of Rs.25,000/- to each child under the head loss of love and affection totalling to a sum of Rs.50,000/- needs to be enhanced. Accordingly, this Court feels that a sum of Rs.50,000/- per child under the head loss of love and affection, totalling to a sum of Rs.1,00,000/- would be a just and reasonable compensation. Accordingly, this Court awards Rs.10,000/- under the head transportation expenses and a sum of Rs.1,00,000/- (Rs.50,000/- X 2) under the head loss of love and affection.

8. Accordingly, the break-up details of compensation enhanced by this Court read as follows:

|                                                                 |   |               |
|-----------------------------------------------------------------|---|---------------|
| Loss of dependency                                              | - | Rs.8,18,400/- |
| Loss of consortium                                              | - | Rs. 30,000/-  |
| Loss of love and affection<br>to the children (Rs.50,000/-each) | - | Rs.1,00,000/- |
| Funeral expenses                                                | - | Rs. 25,000/-  |
| Transportation Expenses                                         | - | Rs. 10,000/-  |
|                                                                 |   | -----         |
| Total                                                           | - | Rs.9,83,400/- |
|                                                                 |   | -----         |

9. In the result, for the reasons aforesaid, the Civil Miscellaneous Appeal is allowed, enhancing the amount of compensation from Rs.7,38,560/- to Rs.9,83,400/-. However, there shall be no order as to costs. Office shall issue copy of the judgment to the claimants on payment of necessary court fee on the enhanced compensation awarded by this Court above.

10. The Insurance Company is directed to deposit the amount of Rs.9,83,400/-, enhanced by this Court, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, 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 deposit, the Tribunal shall transfer the share of the respective claimants directly to their bank account through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Special District Judge  
Motor Accident Claims Tribunal  
Salem.

2. The Section Officer, VR Section,  
High Court, Madras.

+ 1 cc to MR. T.Anantha Sekar, Advocate Sr.3464

+ 1 cc to MR. S. Manohar, Advocate Sr.3451

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EU(03/04/2018)