

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2017

CORAM

THE HONOURABLE DR.JUSTICE.S.VIMALA

C.M.A. No. 1545 of 2017

1. Pitchammal
2. S. Gurusamy
3. Pappa .. Appellants/Petitioner

Vs

1. M. Pethalakshmi
2. United India Insurance Co. Ltd.,
No.52 General Muthiah Street,
Sowcarpet, Chennai - 79. ... Respondents/Respondents
(1st Respondent exparte in Lower Court hence given up)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 59 of 1988, to set aside the decree and Judgment dated 28.06.2010 made in MCOP No.2457 of 2007 on the file of Motor Accident Claims Tribunal II Court of Small Causes, Chennai.

For Appellants : Mr.Amar.D. Pandiya
For 2nd Respondent : Mr.J.Chandran

JUDGMENT

The deceased, Maniammal, aged about 68 years, a vegetable vendor and self-employed earning a sum of Rs.3,000/- per month, died in an accident that took place on 26.12.2006. The legal representatives filed a claiming petition for compensation claiming a sum of Rs.3,00,000/- as compensation.

2. The Tribunal, on consideration and oral and documentary evidence, awarded a sum of Rs.1,40,000/- as compensation, the break up of which is as hereunder :-

Pecuniary loss	-	Rs.1,20,000/-
Loss of love and affection	-	Rs. 15,000/-
Funeral expenses	-	Rs. 5000/-

Total		Rs.1,40,000/-
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Assailing the compensation as inadequate, the claimants have filed this appeal.

3. The main contention of the appellants is that the monthly income of the deceased has not been properly fixed by the Tribunal and that had resulted in inadequate award being passed to the claimants and the same requires enhancement.

4. This Court gave its anxious consideration to the contention advanced by the learned counsel for the appellant and perused the materials available on record as also the order passed by the Tribunal.

5. A perusal of the order passed by the Tribunal reveals that no documentary evidence has been filed to substantiate the income of the deceased. In the absence of the same, the Tribunal has quantified the compensation at Rs.1,20,000/= fixing the monthly income of the deceased at Rs.3,000/-, deducting 1/3rd towards the personal expenses and adopting multiplier of 5, the age of the deceased being 68 years.

6. Though the Tribunal has appreciated the evidence and fixed the income of the deceased at Rs.3,000/- per month, however, has lost sight of the works rendered by the deceased as a housewife. A perusal of the record reveals that though the deceased was aged about 68 years, there is nothing on record to show that she was not able to discharge the household duties. Considering the fact that the evidence indicates she has been self-employed, and earning an amount of Rs.3,000/- as monthly income, some amount needs to be fixed towards the works rendered by the deceased as housewife. This Court is of the opinion that a sum of Rs.500/- could be added to the notional income of Rs.3,000/- and deducting Rs.1,000/- towards the personal expenses and adopting multiplier of 5, the compensation is quantified at Rs.1,50,000/- (Rs.2,500 X 12 X 5). Accordingly, this Court awards a compensation of Rs.1,50,000/- under the head loss of income.

7. Insofar as the compensation awarded towards loss of love and affection at Rs.15,000/-, it is to be stated that the said sum is very meagre and the same requires enhancement. Accordingly, this Court feels that a sum of Rs.75,000/- would be just and reasonable compensation under the head loss of love and affection.

8. Similarly, the compensation awarded at Rs.5,000/- towards funeral expenses is also on the lower side. This Court deems it fit to enhance the same to Rs.25,000/-, which would be just and reasonable compensation. This Court further awards a sum of Rs.5,000/- towards transportation expenses.

9. Accordingly, this Court enhances the compensation to Rs.2,55,000/- under the following heads :-

Loss of Income	-	Rs.1,50,000/-
(Rs.2,500 X 12 X 5)		
Loss of love and affection	-	Rs. 75,000/-
Funeral expenses	-	Rs. 25000/-
Transportation Expenses	-	Rs. 5,000/-

Total		Rs.2,55,000/-

10. In the result, the civil miscellaneous appeal is allowed enhancing the compensation from Rs.1,40,000/- to Rs.2,55,000/= with interest at 7.5% p.a. from the date of petition till the date of deposit. No costs.

11. It is represented that the amount as awarded by the tribunal has already been deposited before the Court below. The 2nd respondent/insurance company is directed to deposit the balance portion of the amount, as enhanced by this Court above, 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 order. On such deposit being made, the Tribunal is directed to transfer the compensation in equal proportion to the claimants/appellants directly to their bank account through RTGS within a period of two weeks thereafter. The Court fee due if any shall be paid by the claimants before obtaining copy of the award.

Sd/-
Assistant Registrar (Co)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

ksa/GLN

To

1. The Motor Accident Claims Tribunal
(II Court of Small Causes)
Chennai.

2. The Section Officer
VR Section, High Court
Madras.(2 copies)

+1cc to Mr.J.CHANDRAN, Advocate, S.R.No.39738
+1cc to Mr.S.RAVIKUMAR, Advocate, S.R.No.39797

C.M.A. 1545 of 2017

AD(CO)
TR(20/04/2018)



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