

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.259 of 2015

Mrs.K.Hemalatha@ Latha

.. Appellant/Petitioner

versus

1. M/s.Yogaa & Company,
Rep. by its Managing Partner,
No.1/354-2, Ramasamy Nagar,
Thirumalpuram, Madurai-625 104.
(R1 was set exparte before the lower Court)
2. ICICI Lombard General Insurance Co. Ltd.,
Chottabai Centre, No.140,
Nungambakkam High Road,
Chennai-600 034.
3. Mr.V.Narayanasamy
4. Mrs.N.Sakunthala Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.4134 of 2012 dated 24.06.2014, on the file of the Motor Accidents Claims Tribunal (III Judge, Court of Small Causes), Chennai.

For appellant : Ms.A.Salomi
for Mr.V.Venkatesan

For Respondents: Ms.R.Sree Vidhya (R2)
No appearance (R3)
R1-exparte before the Lower Court.

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J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.4134 of 2012, the claimant has come forward with this Civil Miscellaneous Appeal.

2. The deceased Mr.Kesavan, aged 48 years, self employed, earning a sum of Rs.12,000/- per month, died in an accident on 30.04.2012. Hence, his wife has filed a claim petition in M.C.O.P.No.4134 of 2012, before the Motor Accidents Claims Tribunal, seeking compensation of Rs.20,00,000/-. The Claims Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.8,40,000/-, along with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the award are as under:

Taking the monthly income of the deceased at Rs.6,000/- and after deducting 1/3 rd amount towards the personal expenses of the deceased pecuniary loss is calculated as Rs.4,000x12x15	-	Rs. 7,20,000/-
Loss of consortium to the 1 st petitioner	-	Rs. 25,000/-
Loss of Love and affection to the 1 st petitioner & the respondents 3 & 4	-	Rs. 75,000/-
Funeral expenses	-	Rs. 20,000/-
		Rs. 8,40,000/-

सत्यमेव जयते

3. Heard both sides and perused the materials available on record.

4. The learned counsel for the appellant would submit that the compensation awarded by the Tribunal is very low and the same has to be enhanced. He would further submit that the tribunal erred in fixing the monthly income at Rs.6,000/- per month and future prospects was not considered.

5. The learned counsel for the second respondent/Insurance Company would contend that the monthly income fixed by the Tribunal is very reasonable and there is no scope of enhancement at all.

6. This Court, considering the submissions made by the learned counsel appearing on either side and also considering the age of the deceased and nature of job, is inclined to award future prospective increase in income, while quantifying Loss of dependency. Hence, taking a sum of Rs.6000/- as monthly income, by adding 30% towards future prospective increase in income and deducting 1/3rd towards personal expenses and by adopting the multiplier of 14, a sum of Rs.8,73,600/- (Rs.6,000/- + 30% - 1/3 x 12 x 14) is awarded towards Pecuniary Loss. A sum of Rs.1,15,000/- towards loss of love and affection to both the mother and father of the deceased and a sum of Rs.25,000/- is awarded towards funeral expenses and a sum of Rs.6,800/- is awarded towards transportation and a sum of Rs.1,00,000/- is awarded towards loss of consortium to the wife.

7. In the result, this Civil Miscellaneous Appeal is allowed enhancing the compensation from a sum of Rs.8,40,000/- to Rs.11,20,400/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Second Respondent Insurance Company is directed to deposit the enhanced award amount, along with interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant and respondents 3 and 4 are permitted to withdraw their share of the amount as per the apportionment made by the Tribunal. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
(III Judge, Court of Small Causes),
Chennai.

+1 cc to M/s.V.Venkatesan Advocate sr 7601
+1 cc to M/s.B.L.Jayakandan Advocate sr12909
+1 cc to M/s.R.Sree Vidhya Advocate sr 8051

C.M.A. No.259 of 2015

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