

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

C.M.A.No.2677 of 2015

1. K.Kalaiselvi
2. K.Kesavan
3. K.Madhavan

... Appellants

vs.

- 1.N.Shankar
- 2.The Oriental Insurance Co. Ltd.,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai 108.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the Judgment and decree, dated 15.12.2014 made in M.C.O.P.No.346 of 2013, on the file of the Motor Accidents Claims Tribunal (III Judge, Small Causes Court), Chennai.

For Appellant : Mrs.Ramya V. Rao

For 1st Respondent : Mr.K.Thirumavalavan

For 2nd Respondent : Mr.K.Arun Kumar

J U D G M E N T

(Judgement of this Court was made by Justice S.MANIKUMAR)

In the accident, which occurred on 03.08.2012, husband of the first appellant/claimant, aged 44 years, died. Legal representatives of the deceased claimed compensation of Rs.25,00,000/-. The 2nd respondent-Insurance Company, disputed the manner of accident, negligence on the part of the motorcycle and liability to pay compensation claimed under different heads. Before the Tribunal, the first appellant/claimant examined herself as PW.1. PW.2 is an eye-witness to the accident. Exs.P1

to P10 have been marked on the side of the respondent/claimant. On behalf of the 2nd respondent-Insurance Company, no oral or documentary evidence has been adduced. On evaluation of pleadings and evidence, the Tribunal held that the motorcyclist was negligent in causing the accident and awarded Rs.8,13,000/- with interest at the rate of 7.5% per annum from the date of claim, till the date of realisation. Apportionment of the award amount is as follows:

Monthly income of the deceased	: Rs.7,000/-
Annual income of the deceased	: Rs.84,000/-
After deducting 1/3rd amount towards personal and living expenses of the deceased and after applying '13' multiplier (Rs.56,000 x 13)	: Rs.7,28,000/-
Loss of consortium	: Rs. 40,000/-
Loss of love and affection	Rs. 30,000/-
Funeral expenses	: Rs. 15,000/-

Total	: Rs.8,13,000/-

2. Though the learned counsel for the appellants/claimants has made submissions for enhancement of the quantum of compensation, awarded to the legal representatives of the deceased, under various heads, this Court has directed the learned counsel appearing for the respective parties to arrive at a consensus, on quantum. After discussion, quantum of compensation, arrived at, by the learned counsel, is as follows:

Monthly income of the deceased	: Rs.7,000/-
Annual income of the deceased	: Rs.84,000/-
After adding 30% for future prospects	: Rs.1,09,200/-
After deducting 1/3rd amount towards personal and living expenses of the deceased and after applying '13' multiplier (Rs.72,800 x 13)	: Rs. 9,46,400/-
Loss of consortium	: Rs. 1,00,000/-
Loss of love and affection	: Rs. 1,00,000/-
Funeral expenses	: Rs. 25,000/-

Total	: Rs.11,71,400/-

3. In the result, the Civil Miscellaneous Appeal is allowed. The 2nd respondent-Insurance Company is directed to deposit the amount, consented to, by both the learned counsel, less the amount already deposited, with accrued interest and costs, to the credit of M.C.O.P.No.346 of 2013, on the file of the Motor Accidents Claims Tribunal (III Judge, Small Causes Court), Chennai, within a period of six weeks from the date of receipt of a copy of this order. The Appellants/claimants are permitted to withdraw the said amount, by making necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

skm

To

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

+1cc to Mr.A.N. Viswanatha Rao, Advocate Sr. 18228

+1cc to Mr.S. Arunkumar, Advocate Sr. 18174

C.M.A.No.2677 of 2015

VSN(CO)
VR(11/04/2017)

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