

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/3/2017

C O R A M

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

C.M.A.No.302 of 2015

1. J. Uma
2. Master J.Jaideep Harsha (minor)
3. J. Chandrasekaran
4. C. Regina Devi
5. Master J. Ajai Santhosh (minor) Appellants

(Minor petitioners are represented by
their mother and next friend/first appellant herein)

Vs

1. R. Mohan Raj
2. Shriram General Insurance Co Ltd
No.62, II Floor, City Centre Complex
Thirumalai Pillai Street
T. Nagar
Chennai 17. Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.2183 of 2010, dated 9/9/2014 on the file of Motor Accidents Claims Tribunal (In the Court of Small Causes), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents: Mr.S.Dhakshinamoorthy
for R.2.

J U D G M E N T

[Judgment of the Court was made by S.MANIKUMAR, J.]

Not satisfied with the quantum of compensation of Rs.21,02,500/- with interest at the rate of 7.5% per annum, from the date claim till deposit and costs awarded to the legal representatives of the deceased, aged about 28 years, worked as Manager-Cluster in M/s. Equitas Development Initiatives Trust, Nandanam, Chennai, instant appeal has been filed for enhancement.

2. Going through the award and material on record, we could deduce that while the deceased was travelling as a pillion rider in a motor cycle bearing Registration No.TN05W-4619, at T.H.Road, Chinnandi Madam, in front of Lakshmi Medical Shop, Karumari Amman Koil Street junction from west to east, the first respondent's lorry bearing Registratio No.TN28B-8163 driven by its driver in a rash and negligent manner from east to west, hit the motor cycle, due to the impact, the motorcyclist and the pillion rider were thrown out. Both the rider and the pillion rider, died on the spot. Legal representatives of the pillion rider had filed M.C.O.P.No.2183 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai.

3. On the basis of oral and documentary evidence, the tribunal awarded Rs.21,02,500/-, with 7.5% p.a., with interest and costs, as follows:-

Pecuniary loss (Rs.12,500 x $\frac{3}{4}$ x 12 x 17)	...	Rs.19,12,500/-
Loss of consortium	...	Rs. 1,00,000/-
Loss of love and affection	...	Rs. 1,00,000/-
Funeral expenses	...	Rs. 25,000/-
Loss of expectation of life	...	Rs. 10,000/-
Transport	...	Rs. 5,000/-

		Rs.21,02,500/-

4. On the appeal filed for enhancement of compensation, we have requested the learned counsel for both parties to consider the compensation awarded under various heads and whether the same could be enhanced, on the principle of just compensation.

5. Going through the same, learned counsel for the parties on consensus agreed that compensation awarded by tribunal should be enhanced. Amount to be determined is Rs.46,87,926.25 in the following manner.

Annual Income as per I.T	...	Rs. 2,47,374.00	+
Future prospects 50% (Rs.2,47,374 x 50 x 100)	...	Rs. 1,23,687.00	

		Rs. 3,71,061.00	
Less 10% Income Tax		Rs. 37,106.00	

		Rs. 3,33,955.00	x $\frac{3}{4}$
After $\frac{1}{4}$ deduction for personal and living expenses		-----	
		Rs. 2,50,466.25	
Since deceased is aged 28 years, multiplier to be applied is 17			
Loss of Income		Rs. 42,57,926.25	
Loss of Consortium		Rs. 1,00,000.00	
Loss of Love and affection		Rs. 3,00,000.00	
Funeral expenses		Rs. 25,000.00	
Transport		Rs. 5,000.00	
Total		-----	
		Rs. 46,87,926.25	

Compensation awarded by the Tribunal	:	Rs.21,02,500.00	
In the light of consensus, amount determined is		: Rs.46,87,926.25	

Enhanced compensation		Rs.25,85,426.25	

6. In the light of consensus arrived at, the legal representatives of the deceased pillion rider are entitled to a compensation of Rs.46,87,926.25 as against Rs.21,02,500/- awarded by the tribunal, with interest, at the rate of 7.5% per annum, from the date claim till deposit. Enhanced amount is Rs.25,85,426.25.

7. In view of the above, we direct Shriram General Insurance Company Limited/2nd respondent herein, to deposit the enhanced amount, with interest, at the rate of 7.5% per annum, from the date of claim till deposit and costs, less the statutory deposit, to the credit of M.C.O.P.No.2183 of 2010, on the file of Motor Accidents Claims Tribunal (Chief Small Causes Court),

Chennai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellants 1, 3 and 4/claimants are permitted to withdraw the same, by making necessary applications before the tribunal. Shares of the minors 2 and 5, shall be deposited in any one of the Nationalised Banks, under a fixed deposit scheme, initially for a period of three years. Mother/first respondent is permitted to receive the accrued interest, on the share of the minors, once in three months, till they claim majority.

8. The Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

mvs.

To
The Motor Accidents Claims Tribunal
(Chief Small Causes Court), Chennai,

Copy to:
The Section Officer, VR Section, High Court,
Madras.

+1cc to Mr.Dakshinamurthy, Advocate sr.16609

+1cc to Mr.Varadakamaraj, Advocate sr.15963

C.M.A.No.302 of 2015

mg(co)
ss(17/4/2017)

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