

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.2022 of 2017

1.K.Parimala
2.K.Karthikeyan (Minor)
3.K.Jayanthi (Minor)
(2 & 3 represented by their mother & Natural Guardian,
K.Parimala, No.1)
4.N.Poorani ... Appellants/Petitioners

Vs

1.R.Damodaran
2.United India Insurance Co.Ltd.,
Silingi Building, New No.134, Old No.40-12,
Greams Road, Chennai - 600 006. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 for enhancement of compensation, against the fair and decretal order dated 21.11.2012 in MCOP No.3826 of 2010 on the file of the Motor Accidents Claims Tribunal/Chief Judge, Court of Small Causes, at Chennai.

For Appellant : Mr.A.N.Viswanatha Rao
2nd Respondent : Mr.Michael Viswasam
1st Respondent : exparte Before Tribunal

JUDGMENT

The deceased, Kannan, aged 35 years, who is a fisherman and owns a boat and earning a sum of Rs.15,000/- per month, died in the accident that occurred on 6.9.2010. The claimants, viz., wife, minor children and mother of

the deceased have filed the claim petition claiming a sum of Rs.25,00,000/- as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.14,54,000/-, the break up details are as hereunder :

Loss of pecuniary benefits	:	Rs.14,04,000/-
Rs.7800 x 12 x 15		
Loss of consortium to P1	:	10,000/-
Loss of love and affection to	:	30,000/-
petitioners 2 to 4		
Rs.10,000 x 3		
Funeral expenses	:	10,000/-

		Rs.14,54,000/-

Challenging the said compensation awarded as inadequate, the present appeal has been filed by the claimants.

3. Learned counsel appearing for the appellant submits that the first claimant is aged 31 years and she has lost her husband at a very young age, thereby she is deprived of companionship and, the compensation awarded by the Tribunal under the head loss of consortium is very meagre. Similarly, the compensation awarded under the head loss of love and affection is also on the lower side, the minor claimants being aged only 13 and 8 respectively.

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

5. The order passed by the Tribunal reveals that the Tribunal has calculated the loss of pecuniary benefits by fixing the monthly income of the deceased at Rs.8,000/- and adding 30% i.e. Rs.2,400/- towards future prospective increase in income, the monthly income has been fixed at Rs.10,400/-. From the said sum, deducting $\frac{1}{4}$ towards the personal expenses of the deceased, the monthly contribution of the deceased to the family has been fixed at Rs.7,800/-. Adopting a multiplier of 15, the loss of pecuniary benefits has been quantified at Rs.14,04,000/- (Rs.7,800/- x 12 x 15).

6. A careful perusal of the reasoning given by the Tribunal for quantification of compensation under the head loss of pecuniary benefits, this Court is of the considered view that the Tribunal has analysed the materials available on record and has appropriately quantified the compensation under the above head. This Court feels that no interference is called for with the compensation awarded under the head loss of pecuniary benefits.

7. Insofar as compensation awarded under the heads loss of

consortium and loss of love and affection is concerned, as rightly pointed out by the learned counsel for the claimants, the spouse is aged 31 years, she has been deprived of the companionship of the deceased due to the untimely death. She has been left to live out her life and face all the hurdles without the support of her husband. Compensation, just and adequate, needs to be given, though it can never offset the loss suffered by her. The Tribunal has awarded only a paltry sum of Rs.10,000/-, which this Court, on the facts and circumstances of the case, feels is very less. Accordingly, this Court enhances the compensation under the head loss of consortium to Rs.1,00,000/-.

8. Insofar as the compensation under the head love and affection is concerned, as stated above, the minor children have lost their father at a very tender age and have been deprived of his care, guidance, love and affection and his association in times of need. Likewise, the 4th claimant, mother, has also lost her son who was supposed to take care of her at her older age. Definitely adequate compensation needs to be awarded. However, only a sum of Rs.10,000/- each has been awarded by the Tribunal to claimants 2 to 4 under the head loss of love and affection. This Court feels that a sum of Rs.1,00,000/- each of the minor claimants, viz., claimants 2 and 3 and a sum of Rs.50,000/= to the 4th claimant, viz., mother of the deceased would be just and reasonable compensation under the head loss of love and affection. The compensation of Rs.10,000/= awarded by the Tribunal under the head funeral expenses is confirmed.

9. Accordingly, this Court enhances the compensation payable to the claimants as under :-

Loss of pecuniary benefits	:	Rs.14,04,000/-
Rs.7800 x 12 x 15		
Loss of consortium to P1	:	1,00,000/-
Loss of love and affection to	:	2,50,000/-
petitioners 2 and 3		
Rs.1,00,000/- x 2 = Rs.2,00,000/-		
to P4 -		Rs. 50,000/-
Funeral expenses	:	10,000/-

		Rs. 17,64,000/-

10. For the reasons aforesaid, the civil miscellaneous appeal is allowed enhancing the compensation from Rs.14,54,000/- to Rs.17,64,000/- as shown above. No costs.

11. The 2nd respondent/insurance company is directed to deposit the entire award amount as enhanced by this Court above, along with interest 7.5%, and costs as as ordered by the Tribunal, less the amount, if any, already deposited, 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 being made, the Tribunal shall transfer the award amount as per apportionment made by the Tribunal directly to the bank account of the major claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the minor claimants is concerned, the same shall be kept in an interest bearing fixed

deposit till the claimants attains majority. The 1st claimant, mother of claimants 2 and 3 is permitted to withdraw the interest accrued thereon, once in three months.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

vsi2/GLN

To

1.The Chief Judge Motor Accident Claims Tribunal,
Chief Judge, Small Causes Court,
Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

+1cc to Mr.A.N.Viswanath Rao, Advocate SR.No.53870
+1cc to Mr.J.Michael Viswasam, Advocate SR.No.53584

VGI (CO)
GN(03/04/2018)

C.M.A.No.2022 of 2017

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