

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2419 of 2014

1. Mr. S.Seshadri Narayanan
2. Nighamath (Minor)
Rep. By his father, first Appellant
3. Mrs. Mohana
4. Mr. Veeraraghavan Appellants/Claimants

..Vs..

1. M.P.Murugan
2. ICICI Lombard General Insurance Co. Ltd.,
No.140 Nungambakkam High Road,
Chennai 600 034
(R-1 exparte in lower court) ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 10.01.2013, made in MCOP No.3073 of 2009 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellants : Mr. V.Mohan Choudary

For Respondents : Mrs. R.Sreevidhya, for R-2
Exparte, R-1

सत्यमेव जयते
J U D G M E N T

The deceased, Vimala, who is a B.B.A., graduate, aged 36 years, employed as a Computer data entry operator, earning a sum of Rs.10,000/- per month, died in an accident that took place on 10.07.2009. As against the claim made for a sum of Rs.12,00,000/-, the Tribunal has awarded a sum of Rs.8,38,000/- and the details of the award are as follows:-

Heads	Amt. Awarded / Rs. P.
Loss of Pecuniary benefits to the estate of the deceased.	7,68,000.00

Heads	Amt. Awarded / Rs. P.
Loss of consortium to the P-1	20,000.00
Loss of love and affection to the petitioners	40,000.00
Funeral expenses	10,000.00
Total	8,38,000.00

2. The learned counsel for the appellants / claimants would point out that the future prospective increase in income has not been taken into account by the Tribunal and the amount of monthly income fixed at Rs.6,000/- per month, is also grossly inadequate.

3. At the outset, it has to be pointed out that even though salary certificate of the deceased was not marked, a certificate, showing that the deceased was a B.B.A., graduate has been marked, vide Ex.P-17. From out of the monthly income of Rs.6,000/-, deducting Rs.2,000/- towards the personal expenses and adding Rs.2,000/- towards future prospective increase in income, adopting the multiplier of '15', the loss of dependency would be Rs.10,80,000/- ((Rs.6,000/- (-) Rs.2,000/- (+) Rs.2,000/- : Rs.6,000 x 12 x 15)).

4. So far as the amount awarded under other heads by the Tribunal are concerned, the same are low, hence, substantial increase in those amounts are required.

4.1. The husband has lost his wife at the young age, hence, the loss of consortium to the first petitioner is awarded at Rs.50,000/-. The second claimant / minor requires guidance, support and affection of his mother, therefore, the loss of love and affection to the minor petitioner is estimated at Rs.1,00,000/-,

4.2. The loss of love and affection to each of the third and fourth claimants are fixed at Rs.50,000/-, (totalling to Rs.1,00,000/-) and funeral expenses is fixed at Rs.25,000/-.

4.3. Thus, the total amount of compensation payable is fixed at Rs.13,55,000/-.

5. In the result, this Civil Miscellaneous Appeal is allowed, by enhancing the total compensation from Rs.8,38,000/- to Rs.13,55,000/- and this amount of compensation shall be deposited by the second respondent / Insurance Company, less the amount already deposited, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this judgment.

5.1. On such deposit being made, the first claimant / husband will be entitled to withdraw a sum of Rs.2,50,000/- with

proportionate interest and the third and fourth claimants are each entitled to a sum of Rs.1,00,000/- with proportionate interest and the second claimant / son is entitled to a sum of Rs.9,00,000/-, with proportionate interest, which shall be in Fixed Deposit, till the minor attains majority. Till such time, the accrued interest thereon shall be withdrawn by the natural guardian / first appellant, once in three months, under intimation to the Tribunal. No costs. Before receiving the copy of the judgment, the claimants shall pay the necessary court fee for enhanced compensation amount.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Motor Accident Claims Tribunal,
III Small Causes Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mrs. R.Sreevidhya, Advocate, S.R.No.4257

+2cc's to Mr.V.Mohan Choudary, Advocate, S.R.No.3645

C.M.A.No.2419 of 2014

KGK(CO)
CA(30/06/2017)

सत्यमेव जयते

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