

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No. 390 of 2017

and

M.P.No.1 of 2015

1. Vijaya
2. Minor M.Devapriyadharsini,
(Minor rep. by her guardian
Mother Vijaya) Appellants/Petitioners

Vs.

1. D.Edwin,
2. United India Insurance Co., Ltd.,
No.178, 1st Floor, Dr.Nanjappa Road,
Coimbatore. Respondents/Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 30.01.2015 made in MCOP.No.1143 of 2010 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge, Tirupur.

For Appellant : Mr. V.Udayakumar

For Respondents : Mr.T.Ravichandran (R2)
R1 Exparte.
before Tribunal

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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.1143 of 2010, on 30.01.2015, the claimant has come forward with this Civil Miscellaneous Appeal.

2. One Mr.Manoharan, aged 54 years working as a Village postman, Commission Agent of DISE and PACL India Limited earning a sum of Rs.12,000/- per month, died in an accident that

occurred on 20.08.2010. Hence, his wife and Minor daughter as his Legal Representatives filed a claim petition in M.C.O.P.No.1143 of 2010, seeking compensation for a sum of Rs.15,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.6,92,200/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as follows:

Loss of Earnings	-	Rs. 6,07,200/-
Loss of Love and Affection	-	Rs. 60,000/-
Funeral Expenses	-	Rs. 25,000/-

Total Rs.6,92,200/-

4. The learned counsel for the appellants would submit that the compensation awarded by the Tribunal is very low and the same needs to be enhanced.

5. The learned counsel appearing for the second respondent would contend that the compensation awarded by the Claims Tribunal is reasonable and the same need not be interfered with.

6. A perusal of the award passed by the Claims Tribunal would go to show that based on Ex.P7- Pay slip from the Post Office and Ex.P13- salary certificate with regard to additional income had taken the monthly income at Rs.6,000/- per month, by adding future prospects at Rs.900/- and by deducting 1/3rd towards personal expenses has taken a sum of Rs.4,600/- per month as monthly income and by adopting multiplier 11 has awarded a sum of Rs.6,07,200/- towards Loss of earnings.

7. Considering the fact that since the deceased was working as a part time employee as a commission agent and also based the documents filed by the claimants viz., Exs.P7 and P13, I am inclined to fix a sum of Rs.7,500/- per month. As the deceased was 54 years at the time of his death, deducting 1/3rd towards personal expenses and by adopting multiplier 11 a sum of Rs.6,60,000/- (5000x12x11) is awarded towards Loss of earnings.

8. It is seen that the Tribunal has not awarded any amount towards Loss of consortium to the wife of the deceased and therefore, a sum of Rs.1,00,000/- is awarded under this head. In so far as other heads are concerned, the compensation awarded by the Tribunal is confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.6,92,200/- to Rs.8,45,000/- as follows:

Loss of Earnings (5000x12x11)	-	Rs. 6,60,000/-
Loss of consortium	-	Rs. 1,00,000/-
Loss of Love and Affection	-	Rs. 60,000/-
Funeral Expenses	-	Rs. 25,000/-

Total

Rs.8,45,000/-

10. The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till the date of deposit. The Insurance Company is directed to deposit the enhanced compensation within a period of four weeks from the date of receipt of a copy of this order, after adjusting the amount deposited, if any. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Motor Accident Claims Tribunal,
Additional Sub Judge, Tiruppur.

2. The Section Officer
VR Section
High Court, Madras

+1 CC to M/s. T. Ravichandran, sr 18453

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