

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.02.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA
C.M.A.No.607 of 2017

1. T.V.Gunasekaran
2. Selvarani
3. G.Balaraman
4. Minor G.Balasubramani
Minor rep. by his father natural guardian
T.V.Gunasekaran ... Appellants/Petitioners

Vs.

- 1.S.Tharani Devi
- 2.The Oriental Insurance Co.Ltd.,
Division Office, Arcot Road,
Jambunala Complex,
Vellore. ... Respondents/Respondents

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 21.11.2012 made in M.C.O.P.No.99 of 2011 on the file of the Motor Accident Claims Tribunal [II Additional District Judge], Ranipet.

For Appellant : Mr.M.Selvam
For Respondents : Mr.R.Chandran for R2

J U D G M E N T

The deceased, G.Neelavathy, aged 43 years, a tailor-cum-business woman, earning a sum of Rs.7,000/- per month, died in an accident that took place on 05.02.2007. The claimants, legal heirs of the deceased, filed a claim petition in M.C.O.P.No.99 of 2011 before Motor Accident Claims Tribunal [II Additional District Judge], Ranipet, claiming compensation in a sum of Rs.10,00,000/-.

2.The Tribunal, on consideration of the oral and documentary evidence, awarded compensation in a sum of Rs.3,20,000/-, the break-up of which is as hereunder :-

Loss of Income	-	Rs.2,24,000/-
(2,000 X 12 x 1/3 X 15)		
Loss of Love & Affection-	Rs.	80,000/-
(each Rs.20,000/-)		
Funeral Expenses	-	Rs. 16,000/-

Total		Rs.3,20,000/-

Aggrieved by the said inadequate compensation awarded, the claimants have come before this Court by filing the present appeal.

3.Learned counsel appearing for the claimants submitted that future prospective increase in income has not been taken into consideration while awarding compensation. It is further submitted that the monthly income fixed by the Tribunal at Rs.2,000/- is on the lower side and needs to be refixed. It is further contended that no amount has been awarded under the heads transportation and loss of consortium.

4.There is no dispute with regard to the age of the deceased, which is said to be 43 years. It is seen from the evidence that the deceased was working as a tailor-cum-business woman and was said to be earning Rs.7,000/- per month, but no proof has been furnished to substantiate the same. The Tribunal, in the absence of any documentary evidence has fixed the income of the deceased at Rs.2,000/-. The accident has happened in the year 2007. Even a daily wager during the said period would be earning Rs.100 to Rs.150/- per day. In such view of the matter, this Court feels that the income of the deceased should be fixed at Rs.4,500/- per month. Further, future prospective increase in income at the rate of 30% needs to be added to the above income. Deducting 1/3rd towards personal expenses of the deceased and adopting the multiplier of 15, the loss of income is quantified at Rs.7,02,000/- (Rs.5850x12x1/3x15).

5.Insofar as the compensation towards love and affection is concerned, the Tribunal has awarded a sum of Rs.80,000/- at the rate of Rs.20,000/- to each claimant. However, only the 3rd and 4th claimants, viz., children of the deceased are entitled to compensation towards love and affection. Accordingly, the compensation is reduced from Rs.80,000/- to Rs.40,000/-. Insofar as funeral expenses is concerned, the Tribunal has awarded a sum of Rs.16,000/-. However, this Court feels that the same needs to be enhanced and, accordingly, awards a sum of Rs.25,000/- under the said head. Further, the Tribunal has not

awarded any amount towards transportation expenses. This Court feels that an amount of Rs.10,000/- towards transportation expenses would meet the ends of justice. The spouse of the deceased is entitled to consortium as per the 2nd Schedule to the Motor Vehicles Act. However, no amount has been awarded towards loss of consortium. This Court, therefore, awards a sum of Rs.25,000/- under the head loss of consortium.

6.In all, this Court enhances the compensation under the following heads :-

Loss of Income	-	Rs.7,02,000/-
(5,850 X 12 x 1/3 X 15)		

Loss of Love & Affection	-	Rs. 40,000/-
(3 rd &4 th claimant@Rs.20,000/- each)		

Funeral Expenses	-	Rs. 25,000/-
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Transportation Expenses	-	Rs. 10,000/-
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Loss of Consortium	-	Rs. 25,000/-
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Total		Rs.8,02,000/-
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7.In the result, the appeal is partly allowed enhancing the compensation awarded from 3,20,000/- to Rs.8,02,000/-. However, there shall be no order as to costs.

8.It is represented that the amount awarded by the Claims Tribunal has been already deposited. The 2nd respondent/Insurance company is directed to deposit the balance portion of the award amount, as enhanced by this Court above, along with interest at 7.5% from date of petition till the date of deposit and costs, 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 is directed to transfer the amount as per the ratio of apportionment, as ordered by the Tribunal directly to the bank account of the respective claimants through RTGS within a period of two weeks thereafter. The court fee due shall be paid before obtaining copy of the judgment.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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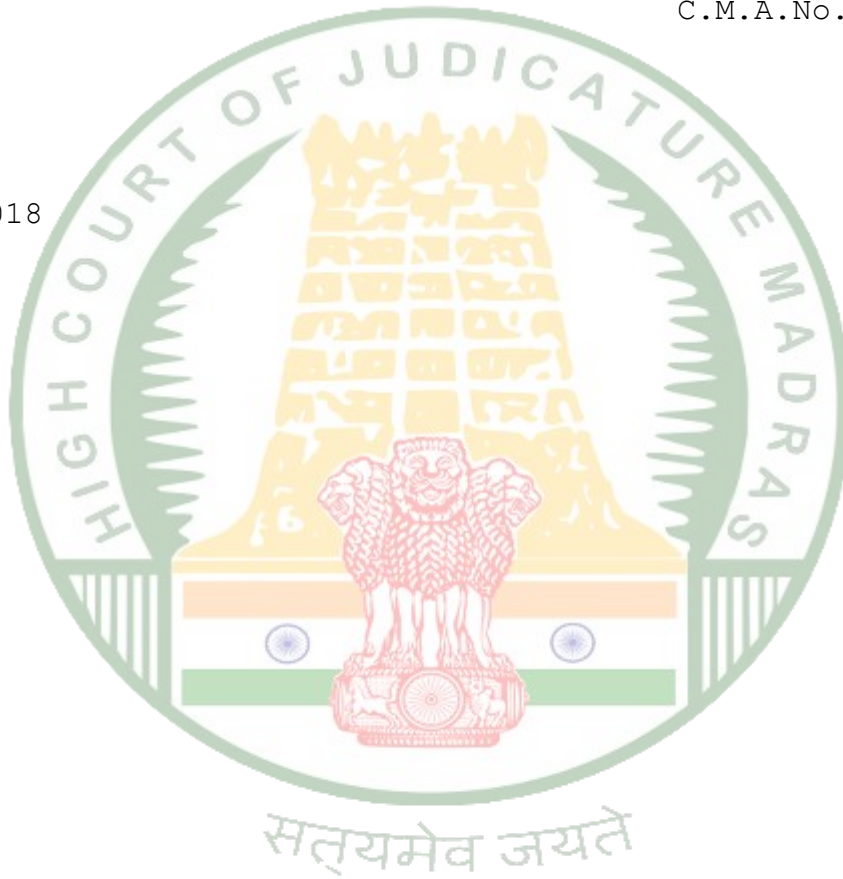
1.The Motor Accident Claims Tribunal
[II Additional District Judge], Ranipet.

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

+1 cc to Mr.M.Selvam Advocate sr 12463

C.M.A.No.607 of 2017

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