

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.697 of 2017

1. K.Maheswari

2. Rajeshkumar ... Appellants /Petitioners

//vs//

1 . APR Logistics Pvt. Limited  
No.9, Devadoss Street,  
Chengalpet,  
Kanchi District.

2 . The Royal Sundaram Alliance Insurance Co. Ltd.  
Rep. by its Branch Manager,  
No.6, L.B.Road, Adyar, Chennai.... Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree in M.C.O.P.No.3606 of 2011 dated 08.01.2013, on the file of the Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai.

For Petitioners : Mr.D.Sampath

For respondent-2 : Ms.Harini  
for Mr.N.Vijayaraghavan

J U D G M E N T  
सत्यमेव जयते

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.3606 of 2011, on 08.01.0213, the claimants have come forward with this Civil Miscellaneous Appeal for enahancement

2 . One Krishnamurthy, the husband of the first claimant, father of second claimant, aged about 40 years, who was working as Head Mason (labour Contractor), met with an accident that occurred on 20.11.2010, as a result of which he sustained fatal injuries and subsequently died in the Government General Hospital on 25.11.2010. Hence, the claimants filed a claim petition in M.C.O.P.No.3606 of 2011, seeking compensation for a sum of Rs.20,13,000/-.

3 . The Tribunal, by appreciating the oral and documentary evidence, awarded a sum of Rs.6,85,200/-, with interest @ 7.5% per annum from the date of petition till the date of payment. The break-up details of the same are as follows:

| Heads                                                                                                          | Amount in Rs. |
|----------------------------------------------------------------------------------------------------------------|---------------|
| Loss of Income $(4,500 \times 30\% = 5850;$<br>$5850 - 1/3 = 3900 (5850 - 1950)$<br>$3900 \times 12 \times 14$ | 6,55,200      |
| Consortium to first appellant                                                                                  | 10,000        |
| Love and affection                                                                                             | 10,000        |
| Funeral Expenses                                                                                               | 10,000        |
| Total                                                                                                          | 6,85,200      |

4. The learned counsel for the appellants would submit that the Tribunal awarded only a sum of Rs.6,85,200/- which is very low and monthly income of deceased Krishnamurthy was calculated by fixing only at Rs.4,500/- per month which is also very meager. As such, the Award of compensation under the heads are need to be enhanced.

5. A perusal of the award would go to show that on considering the age, family circumstances and also non filing of documents, to prove the avocation and income of the deceased Krishnamurthy, the Tribunal has fixed the monthly income of the deceased as Rs.4,500/-. However, based on the arguments put forth by the learned counsel for the appellants, as the deceased was working as Head Mason, his monthly income is fixed at Rs.6,000/- with future prospects at 30%. i.e. Rs.7,800  $(6,000 + 1,800)$ . Further, after deducting 1/3 amount for his personal expenses from the said amount and calculating the annual income with the multiplier of 14, a sum of Rs.8,73,600  $(7800 - 2600 = 5200 \times 12 \times 14 = 8,73,600)$  is fixed under the head of Loss of Earning. Under the Head "Loss of Consortium", the Tribunal had awarded only Rs.10,000/- to the first claimant. Considering the fact that the first claimant, the widow of the deceased was only 42 years old and therefore, a sum of Rs.50,000/- is awarded. So far as the heads under "Love and affection" and "Funeral expenses are concerned, the amount awarded by the Tribunal is enhanced from Rs.10,000/- to Rs.20,000/-.

6. In fine, the amount of compensation awarded by the Tribunal is enhanced from Rs.6,85,200/- to Rs.9,73,600/-, as follows:

| Heads                                                                         | Amount in Rs. |
|-------------------------------------------------------------------------------|---------------|
| Loss of Income (6,000x30%=7800);<br>7800-1/3= 5200 (7800-2600);<br>5200x12x14 | 8,73,600      |
| Consortium to first appellant                                                 | 50,00<br>0    |
| Love and affection                                                            | 25,00<br>0    |
| Funeral Expenses                                                              | 25,00<br>0    |
| Total                                                                         | 9,73,600      |

7. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation from Rs.6,85,200/- to Rs.9,73,600/- with interest @ 7.5% per annum from the date of petition till the date of payment. The second respondent-Insurance Company is directed to deposit the said amount along with interest within a period of six weeks from the date of receipt of a copy of this judgment and the claimants are entitled to withdraw the same forthwith. No costs.

Sd/-  
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

To

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

+1 cc to mr.N.Vijayaraghavan,advocate,sr.19730.

vsn(co)  
krd 12/4

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