

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.816 of 2017

1 . K.L.Alamelu Mangai Thayar

2 . K.L.Niranjan

3 . Nirupa S. Mogili Appellants/Petitioner

//vs//

1 . M.Lilly(set exparte before the tribunal)

2 . The United India Insurance Company Limited,
No.127/A, 1st Floor, Trunk Road,
Poonamallee, Chennai-56. 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.1085 of 2013 dated 24.04.2015 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Poonamallee.

For Appellant : M/s J.Mahalingam.
Maithri Mahalingam

For 2nd Respondent : Mr.P.Sankaranarayanan

J U D G M E N T

1 . Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, in M.C.O.P.No.1085 of 2013, dated 24.04.2015, on the file of Motor Accident Claims Tribunal, III Additional District Court, Poonamallee, the claimants have come forward with this Civil Miscellaneous Appeal for enhancement of compensation.

2. One Mr. Lavakumar, the husband of the first claimant and father of the second and third claimants, aged about 65 years, who was working as Accountant, met with an accident that

occurred on 30.09.2013, while he was riding his motor cycle along with his wife, the first claimant, as pillion rider and died on the spot. Hence, the claimants filed a claim petition in M.C.O.P.No.1085 of 2013 seeking compensation for a sum of Rs.10,00,000/-

3. The Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.4,73,281/-, with interest @ 7.5% per annum from the date of petition till the date of deposit.

4. The break-up details in M.C.O.P.No.1085 of 2013 are as follows:

Loss of Estate		
(4,500-1500=3,000x12x5=1,80,000)	-	Rs.1,80,000
Pain and sufferings	-	Rs.1,00,000/-
Consortium	-	Rs. 50,000/-
Funeral expenses	-	Rs. 15,000/-
Medical Expenses	-	Rs.1,28,281/-
	-	-----
Total	-	Rs.4,73,281/-

5. The learned Counsel for the appellants/claimants submitted that the amount under the head of loss of Estate has to be enhanced, as he was working as accountant in a private company and earning a sum of Rs.9,500/- per month. Likewise, the amount under the heads of funeral expenses and transport charges have to be enhanced and as such, the amount of compensation awarded by the tribunal needs to be enhanced.

6. Based on the arguments put forth by the learned Counsel for the appellants, the income of the deceased per month is fixed as Rs.6,000/- and after deducting of 1/3 amount for his personal expenses i.e. (6,000-2,000=4,000), the income of deceased Lavakumar is fixed at Rs.4,000/- and calculating the annual income with multiplier of 5, a sum of Rs.2,40,000/- (4000x12x5=2,40,000) is fixed under the head of loss of income and a sum of Rs.1,00,000/- is fixed towards consortium to the first appellant/first claimant, the wife of deceased and Rs.50,000/- is fixed under the head of Love and affection to the appellants/claimants. Likewise a sum of Rs.25,000/- is fixed under the head of Funeral expenses and Transport charges. As for as the head under the medical expenses is concerned, the amount of Rs.1,28,281/- as fixed by the trial court is confirmed.

7. In fine, the quantum of compensation awarded by the Tribunal is enhanced from Rs.4,73,281 /- to Rs.5,43,281/-, as follows:

Loss of income (6,000-2,000x12x5=2,40,000)	-	Rs.2,40,000/-
Consortium to the first appellant	-	Rs.1,00,000/-
Love and affection	-	Rs. 50,000/-
Transport and Funeral Expenses	-	Rs. 25,000/-
Medical Expenses	-	Rs.1,28,281/-
	-	-----
Total	-	Rs.5,43,281/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation from Rs.4,73,281/- to Rs.5,43,281/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The interest shall be waived for the delayed period of 305 days. The 2nd respondent is directed to deposit the enhanced Award amount into the credit of M.C.O.P.No.1085 of 2013 within a period of four weeks from the date of receipt of copy of this order. On such deposit, the claimants 1 to 3 are permitted to withdraw their respective share amounts along with interest. The claimants are directed to pay necessary court fee for the enhanced portion of the award amount. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1 . The III Additional District Judge,
Motor Accidents Claims Tribunal,
Poonamallee.
Thiruvallur District.

+1cc to Mr.J.Mahalingam,Advocate sr.18175

+1cc to Mr.P.Sankaranarayanan,Advocate sr.17804

CMA.No.816 of 2017

rj (co)
ss(11/9/2017)