

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1256 of 2013

- 1.Bhakkiam
- 2.Angamuthu
- 3.Manjula

... Appellants

Versus

1. M/s.Select Garments Private Ltd.,
Karumabalai Main Road,
Karuppur Post,
Salem Taluk & District 636 012.
2. The Divisional Manager,
New India Assurance Company Ltd.
Divisional Office : No.17, Fort Main Road,
Shevapet, Salem 636 002.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 16.08.2011 in MCOP.No.363 of 2010 on the file of Principal District Judge, Dharmapuri.

For Appellant : Mr.R.Selvakumar

For Respondents : Mr.R.Sivakumar for R2
R1 - No appearance.

सत्यमेव जयते

JUDGEMENT

This appeal has been filed by the claimant, Bhakkiam, an Executive Manager in Reliance Mobiles, aged 21 years, who died in an accident on 16.02.2010.

2. The first claimant as mother, second claimant as father and the third claimant as sister filed the claim petition for compensation, claiming a sum of Rs.10,00,000/- as compensation. The Tribunal awarded a sum of Rs.4,09,000/- under the following breakup details :

Transportation	:	Rs. 5,000/-
Funeral expenses	:	Rs. 10,000/-
Loss of love and affection for P1	:	Rs. 10,000/-
Loss of love and affection for "P2 and P3" son and mother	:	Rs. 20,000/-
Loss of dependency	:	Rs.3,64,000/-

Total		Rs.4,09,000/-

3. Challenging the award as inadequate, the claimants have filed this appeal.

4. The main contention of the learned counsel for the appellant is that the trial Court should have fixed the monthly income at Rs.7,000/- and that the income fixed at a lower level has brought injustice to the claimant.

5. One Karthikeyan has been examined as PW3, who would depose that he was running recharge coupon shop in the name A.K.Enterprises and the deceased, who was working as a Sales Executive was given salary of Rs.7,000/-p.m. It was the case of the claimant, that the deceased got achievement certificate as per Ex-A10. The Tribunal has fixed the monthly income at Rs.3,500/-, not placing reliance on evidence of PW3.

6. Giving a finding that the deceased was a Bachelor, mother's age alone should be taken into account to fix the multiplier, the loss of dependency has been quantified. Deducting 1/3 towards personal expenses and adopting multiplier of 13, the loss of dependency has been assessed.

7. The justification in adopting the multiplier based upon the age of the mother and not based upon the age of the deceased and when the deceased was the graduate, fixing the monthly income at Rs.3,500/- is under challenge.

8. Learned counsel for the claimant would submit that the monthly income of the claimant should have been fixed atleast at Rs.6,000/-p.m.

8.1. Even going by the modest estimate of taking the monthly income of Rs.6,000/- (being a graduate) and deducting 50% towards personal expenses, but raising 50% income towards future prospective increase in income, the monthly dependency would be Rs.4,500/- ($6000 + 50/100 - 1/2 = \text{Rs.4,500/-}$), adopting multiplier of 18, the loss of dependency would be Rs.9,72,000/-, awarding a sum of Rs.10,000/- towards funeral expenses; Rs.25,000/- for loss of love and affection for P3 and

Rs.1,00,000/- both towards love and affection, for P1 and P2, the total amount of compensation payable is Rs.11,07,000/-.

9. In the result, the appeal is allowed to the extent indicated. Consequently, connected miscellaneous petition, if any is closed. No costs.

9.1 The second respondent shall deposit the compensation as determined by this Court, less the amount already deposited, if any, along with interest @ 7.5% from the date of petition till the date of deposit, within a period of eight weeks from the date of receipt of copy of this Judgment. On such deposit being made, each of the first and second claimants would be entitled for a sum of Rs.5,00,000/- and the third claimant is entitled for a sum of Rs.1,07,000/- with proportionate interests and costs. The Court fee payable by the claimants, if any, shall be paid before the receipt of copy of the Judgment.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Principal District Judge,
Dharmapuri.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.46030

C.M.A. No.1256 of 2013

RSI(CO)
CA(13/09/2017)

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