

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.148 of 2004

1.Vasanth
2.Minor Chitra
3.Poongavanam
4.Manivannan ... Appellants/Claimants
[Appellant No.2 rep. by
N.F. i.e., 1st appellant and
No.4 by 3rd appellant -
all at Maariamman Koil Street,
Oorathur, Villupuram Taluk.]

-Vs-

1. K.Jayaraman
2. The United India Insurance Co. Ltd.,
Nethaji Road, Manjakuppam,
Cuddalore - 1. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.10.2001 made in M.C.O.P.No.189 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Judge-cum-Chief Judicial Magistrate), Villupuram.

For Appellant : Mr.S.Kalyanaraman

For Respondent No.2 : Mr.S.J.Jegadev

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.189 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Judge-cum-Chief Judicial Magistrate), Villupuram. The claimants filed the above appeal claiming compensation of Rs.2,00,000/- for the death of Mannangkatti, who died in a motor accident. The appellants 1 and 3 are the wives and the appellants 2 and 4 are the minor children respectively of the deceased Mannangkatti. The first respondent before the Tribunal is the owner of the offending vehicle.

2. The learned counsel appearing for the appellants/claimants would submit that the Tribunal ought to have fixed income of the deceased at Rs.2,500/- per month as the deceased was an agriculturist and owner of a tyre cart. However, in the absence of dependable evidence, the Tribunal fixed the monthly income of the deceased at Rs.1,000/-.

3. The learned counsel appearing for the second respondent / Insurance Company would submit that the Tribunal awarded a reasonable compensation and it does not require any interference.

4. The Tribunal awarded Rs.1,26,000/- under the head loss of income to the family. It applied multiplier 15 and fixed monthly salary as Rs.1,000/- and deducted Rs.300 towards his personal expenses. Under the heads of loss of consortium and loss of love and affection, the Tribunal awarded Rs.10,000/-. There are four dependants. Having regard to the number of dependants on the deceased and the fact that he was the bread winner of the family, I am inclined to hold that he would have earned Rs.1,500/- per month. As already noticed that the deceased was 42 years old, the Tribunal applied Multiplier 14. There are four dependants. Therefore, $1/4^{\text{th}}$ has to be deducted towards personal expenses. The loss of dependency works out to $\text{Rs.1,500} \times 1 / 4 \times 14 \times 12 = \text{Rs.1,89,000/-}$

5. The Tribunal granted Rs.10,000/- under the heads loss of consortium and loss of love and affection, the wives lost their husband and the children lost the care and guidance of their father. Having regard to the age of the wives and children, this Court is inclined to hold that the amount fixed under the heads loss of consortium and loss of love and affection by the Tribunal is very low. It has to be enhanced. Hence, the amount under the head loss of consortium should be enhanced from Rs.10,000/- to Rs.30,000/- and the amount under the head loss of love and affection should be enhanced to Rs.20,000/- and the under the head transportation expenses, a sum of Rs.2,000/- is awarded. The compensation has to be reassessed as follows:

Sl.No.	Heads	Calculation
1.	Salary	Rs.1,500.00 per month
2.	$1/4^{\text{th}}$ deducted as personal expenses of the deceased	$[\text{Rs.1,500.00} - \text{Rs.375.00}] = \text{Rs.1,125.00}$ per month

Sl.No.	Heads	Calculation
3.	Compensation after multiplier of 14 is applied	[Rs.1,125.00 x 12 x 14] = Rs.1,89,000.00
4.	Loss of Consortium	Rs.30,000.00
5.	Loss of Love and Affection and Care and Guidance for Minor Children	Rs.20,000.00
6.	Funeral Expenses	Rs.2,000.00
7.	Transportation Expenses	Rs.2,000.00
Total	Compensation Awarded	Rs.2,43,000.00

6. In the result, the Civil Miscellaneous Appeal is allowed in part to the extent as mentioned above. The second respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.2,43,000/- [Rupees Two Lakhs Forty Three Thousand only] with interest @ 9% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.189 of 2000 on the file of the Motor Accident Claims Tribunal (Additional District Judge-cum-Chief Judicial Magistrate), Villupuram, within a period of six weeks from the date of receipt of a copy of this order. The appellants/claimants are permitted to withdraw the enhanced compensation amount awarded by this Court with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
(Additional District Judge-cum-
Chief Judicial Magistrate),
Villupuram.

+1cc to Mr.S.Kalyanaraman, Advocate, S.R.No.11277

C.M.A.No.148 of 2004

NRI (CO)
CA(18/04/2017)