

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.3765 of 2013

1. Ramachandran
 2. Veeralakshmi
 3. Karunakaran
 4. Prabhakaran
- ... Appellants/Claimants

Vs.

1. R.Karunakaran
 2. The Divisional Manager,
United India Insurance Co.LTd.,
Cuddalore.
- ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree made in MCOP No.2101 of 2007 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) Cuddalore, dated 08.04.2011.

For Appellant : Mr.M.Selvam

R1 : No appearance

For R2 : Mrs.K.Saraswathi
for Mr.C.R.Krishnamoorthy

JUDGMENT

The claimants are the appellants herein. They have filed the claim petition in M.C.O.P.No.2101 of 2007 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate) Cuddalore, claiming compensation for the death of deceased Thinakaran. The 1st & 2nd appellants are the parents and the 3rd & 4th appellants are the brothers of the deceased Thinakaran.

2. The 1st respondent is the owner of the offending vehicle and the offending vehicle was insured with the 2nd respondent. The Tribunal has awarded Rs.2,79,000/- as against the claim of Rs.15,00,000/-. The appellants / claimants preferred this appeal for enhancement of compensation.

3. There is no appeal by the Insurance Company. It is not in dispute that Thinakaran died on 30.12.2006, when he was travelling in a mini lorry bearing Registration No.TN 31 J 1932. It is also not in dispute that the accident occurred due to rash and negligent driving of the driver of the offending vehicle. The deceased Thinakaran was aged 29 at the time of accident. The Tribunal has fixed the monthly income of the deceased at Rs.4,000/-.

4. The learned counsel for the appellant would submit that the deceased Thinakaran was working as a driver and he was earning Rs.10,000/- per month, but the Tribunal has fixed monthly income at Rs.4,000/- which may be enhanced to Rs.6,000/-. The accident took place in the year 2006. Therefore, I am of the view that the tribunal has correctly fixed the monthly income of the deceased at Rs.4,000/-. The deceased was a bachelor. The Tribunal omitted to take into account future prospects. The deceased was aged 29 at the time of accident and hence, 50% of his income should be added towards future prospects.

5. The Tribunal has awarded a meagre sum of Rs.5,000/- under the head love and affection. The parents of the victim lost their son at the age of 29 and hence, it should be enhanced to Rs.1,00,000/-. Rs.5,000/- granted towards funeral expenses is on the lower side and it should be enhanced to Rs.10,000/-. The tribunal awarded only Rs.5,000/- towards ambulance expenses. The accident occurred near Pollachi. Post-mortem was conducted at Pollachi Government Hospital. The petitioners are residents of a village near Vadalur. Having regard to the above circumstances, I am inclined to enhance the transport expenses from Rs.5,000/- to Rs.10,000/-.

6. As per the dictum in SARLA VERMA vs. DELHI TRANSPORT CORPORATION [(2009) 6 SCC 121], the Tribunal has also applied multiplier 17. There are 2 dependants. Therefore, 1/2 has to be deducted towards personal expenses of the deceased. However, as per the dictum laid down in RAJESH vs. RAJBIR SINGH [2013 (2) TNMAC 55 (SC)] 50% must be added to the actual income of the deceased while computing future prospects. The compensation is re-assessed as follows:-

Sl.No.	Heads	Calculation
1.	Salary	Rs.4,000.00 per month
2.	50% of (i) above to be added as future prospects	[Rs.4,000.00 + Rs.2000.00] = Rs.6,000.00 per month
3.	1/2 deducted as personal expenses of the deceased	[Rs.6,000.00 - Rs.3,000.00] = Rs.3,000.00 per month

Sl.No.	Heads	Calculation
4.	Compensation after multiplier of 17 is applied	[Rs.3,000.00 x 12 x 17] = Rs.6,12,000.00
5.	Love and Affection	Rs.1,00,000/-
6.	Funeral expenses	Rs.10,000/-
8.	Transportation	Rs.10,000/-
	Total	Rs.7,32,000.00

7. In the result, the Civil Miscellaneous Appeal is allowed to the extent as indicated above. The second respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.7,32,000/- [Rupees Seven Lakhs Thirty Two Thousand only] with interest @ 7.5% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.2101 of 2007 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Cuddalore, within a period of six weeks from the date of receipt of a copy of this order. The 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 III)

//True Copy//

Sub Assistant Registrar

dpq

To

The Chief Judicial Magistrate
(Motor Accidents Claims Tribunal)
Cuddalore.

+1cc to Mr.M.Selvam, Advocate, S.R.No.13713

+1cc to Mr.C.R.Krishnamoorthy, Advocate, S.R.No.14030

CMA.No.3765 of 2013

TM(CO)
CS/02/08/17