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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.1628 of 2001

1. C.Sakila
2. C.Deva Anbu Anto (Minor)
S/o.late Charles
Represented by his mother and
Natural Guardian C.Sakila .. Appellants/Petitioners
Vs.

1. B.Jagadeesan
2. The National Insurance Co. Ltd.,
66, Grems Road, Chennai-600 006.
3. J.Mariya Jone. .. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.04.2001 and made in M.C.O.P.No.3033 of 1997 on the file of the Motor Accident Claims Tribunal, V Judge, Court of Small Causes, Chennai.

For Appellant : Mrs.R.Manoranjitham
For 1st Respondent : Exparte
For 2nd Respondent : Mr.N.Vijayaraghavan
For 3rd Respondent : No Appearance

JUDGMENT

The claimants have preferred this appeal challenging the quantum of compensation paid to them consequent to a fatal road accident that took place on 27.04.1996 at 2.10 p.m. when a lorry belonging to the 1st respondent and insured with the 2nd respondent dashed against a pedestrian. The complainants/appellants are the widow and minor daughter respectively of the victim. They made a claim for Rs.5,00,000/-, but restricted the same to Rs.3,00,000/-, as against which the



Tribunal has passed an award for Rs.2,11,000/- and directed the respondents herein to pay the same with interest at the rate of 9% p.a.

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2. The learned counsel for the appellants contended that the victim was 31 years old at the relevant time of accident, that he was a fisherman and he has to support his family of four including himself. The Tribunal however, had taken his monthly income notionally as Rs.1,000/- p.m. Secondly, on the non-pecuniary heads of damages, such as loss of consortium and love and affection of the minor child, the Tribunal has unrealistically and parsimoniously awarded nominal amounts. Compensation therefore, has to be enhanced on both the pecuniary and non pecuniary heads of compensation.

3. The learned counsel for the appellants further submitted that even though the appeal has been filed seeking only Rs.89,000/- additionally, yet if this Court finds that in view of the facts and circumstances the claimants are entitled to a higher compensation, it might interfere with its power under Order 41 Rule 33 of CPC and may come to rescue the family which was driven to destitution due to the recklessness of the driver of the lorry.

4. The victim was 31 years old at the relevant time of accident and he being a fisherman, Rs.1,000/- as reckoned by the Tribunal as the notional monthly income may not be termed a fair assessment of his income. This Court therefore, reckons the monthly income of the victim at Rs.2,000/-. After deducting 1/3 towards his personal expenses, the balance would be Rs.1,333.35 Ps. and this is round of to Rs.1350/-. The appropriate multiplier being 16, the total compensation payable on the head of loss of support to the family is (Rs.1350 X 12 X 16) Rs.2,59,200/- . The 1st claimant, widow of the deceased was a bare 28 years old at the time of accident and Rs.5,000/- awarded towards loss of consortium is an insult to the sufferer and therefore she is awarded Rs.50,000/-. The young child is granted Rs.25,000/- towards loss of love and affection of its father. The total compensation would be modified from Rs.2,11,000/- to Rs.3,36,200/-.

5. In the result, the appeal is allowed and the 2nd respondent is directed to pay a sum of Rs.3,36,200/- less the amount if any already deposited in the Court with interest at 7.5% p.a. throughout within a period of six weeks from the date of receipt of a copy of this order. The appellants are directed to pay the necessary court fee on such portion of the enhanced



compensation regarding which, they have not paid any court fee. The entire apportionment of the compensation shall be shared in the equal ratio between the wife and daughter of the victim. No costs.

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-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

ssn

To:

1. The Motor Accident Claims Tribunal
V Judge, Court of Small Causes,
Chennai.
 2. The National Insurance Co. Ltd.,
66, Greaves Road,
Chennai-600 006.
 3. The Section officer
VR Section, High Court, Madras(2 copies)
- +1 Cc to Mrs.R. Manoranjitham, Advocate sr 74322.

C.M.A.No.1628 of 2001

RK(CO)
SP(20/02/2018)