



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1021 of 2014

1. R.Pandiarajan

2.P.Chitra

...Petitioners/Appellants

Vs.

1.Duraipandi

2.The Branch Manager,

Sriram General Insurance Co.Ltd.,

LIG 306, Nagasundaram Complex 2nd floor,

Suguna Store Building,

Anna Nagar, Madurai- 20.

...Respondents/ Respondents

(1st Respondent set exparte before the Trial Court. Hence notice is dispense with)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.p.No.1473 of 2011, on the file of Motor Accident claims Tribunal/IV Additional District Judge, Madurai, dated 05.11.2013.

For Appellant : Mr.K.Kumaravel

For R-2 : Mr.G.Maruthiah

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants against the award, dated 05.11.2013, made in M.C.O.P.No.1473 of 2011 by the Motor Accident claims Tribunal/IV Additional District Judge, Madurai.

2.It is the case of the claimant before the Tribunal that when the deceased Ram was returning to his house from Keelasantahipettai after went to his relatives house near Fatima College in his Pulsar two wheeler bearing Reg.No.TN 64 A 6710 in front of ABT Maruthi car showroom on the extreme left side of the road, at that time the 1st respondent's driver drove the lorry bearing Reg.No.TN 07 6277 behind the deceased in the said road in a rash and negligent manner with high speed without adhering rules and regulations even not sounding the horn and dashed behind the



deceased. As a result of which, the deceased died. Hence, the claimants filed an application in M.C.O.P.No.1473 of 2011, on the file of the Motor Accident claims Tribunal/IV Additional District Judge, Madurai, seeking compensation.

3. Before the Tribunal, the petitioners /claimants examined two witness as P.W.1 and P.W.2 and marked seven documents as Ex.P.1 to Ex.P.7. The respondents/Insurance Company did not let in any oral or documentary evidence.

4. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the lorry and therefore, directed the second respondent to pay a sum of Rs.3,60,000/-, as compensation.

5. Against which, the appellants/claimants filed this present appeal seeking enhancement of compensation.

6. The learned counsel for the appellants/claimants by relying upon the Judgement of this Court in **SYED SADIQ v. DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD.**, reported in **2014 (1) TN MAC 459**, would submit that the Tribunal has not considered the future prospects of the deceased and has fixed his monthly income as Rs.1,500/- only, after deducting his personal expenses, which is not correct and that the Tribunal also awarded only a meagre sum in all other heads and therefore, the compensation awarded by the Tribunal is to be enhanced.

7. Heard the learned Counsel appearing for the appellant/claimant and the learned Counsel appearing for the respondent and perused all the materials available on record.

8. Though the claimants have not produced any documentary proof with regard to the income of the deceased, considering the nature of his work that he was working as medical representative and as per the settled position, I am of the view that the income of the deceased shall be taken as Rs.4,500/- p.m. Based upon the Judgement of this Court reported in **2014 (1) TN MAC 459 (stated supra)**, 50% of the income is taken for future prospects, which comes to Rs.6750/- (Rs.4,500/- + Rs.2250/-). After deducting 1/2 for his personal expenses, his monthly income is taken as Rs.3375/- p.m. If 18 multiplier is adopted, it works out to Rs.3,375 x 12 x 18 = **Rs.7,29,000/-** for loss of income.

9. The Tribunal has awarded a sum of Rs.50,000/- for loss of love and affection, which is less and hence, the same is enhanced to **Rs.1,00,000/-**. The Tribunal has awarded a sum of Rs.4,000/- for funeral expenses, which is not correct and hence, the same is



enhanced to **Rs.50,000/-**.

10. The Tribunal has not awarded any amount for transportation and hence, a sum of **Rs.10,000/-** is hereby awarded.

11. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	3,06,000	7,29,000	enhanced
2.	For loss of love and affection	50,000	1,00,000	enhanced
3.	For funeral expenses	4,000	50,000	enhanced
4.	For transportation	-	10,000	granted
	Total	Rs.3,60,000	Rs.8,89,000	By enhancing a sum of Rs.5,29,000/-

Since, the appellants have restricted their claim in this appeal to Rs.3,40,000/-, this Court is inclined to enhance the compensation from Rs.3,60,000/- to **Rs.7,00,000/-**.

12. In the result,

(i) This Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from Rs.3,60,000/- (Rupees Three Lakhs Sixty Thousand Only) to a sum of **Rs.7,00,000/-** (Rupees Seven Lakhs Only) along with interest at the rate of 7.5% per annum from the date of petition till date of realization and proportionate costs;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount of **Rs.7,00,000/-** (Rupees Seven Lakhs Only) with accrued interests and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their share as apportioned by the Tribunal, with accrued interests and costs, without filing any formal application before the Tribunal.
No Costs.



(iii) The appellants/claimants are directed to pay the additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

/True Copy/

Sub Assistant Registrar

To,

1. Motor Accident claims Tribunal/IV Additional District Judge,
Madurai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr. K. Kumaravel , Advocate in SR No. 77461

rj2

AE/KP/SAR2/25.10.2017/4P/4C

C.M.A (MD) No. 1021 of 2014
08.09.2017