



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :14.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.610 of 2017

1.Thiyagu
2.Tmt.Amudha

.. Appellants/Claimants 1 & 2

Vs.

1.S.Anthonisamy
2.M/s The New India Assurance Company Limited,
No.149, Bharathiar Road,
Karaikal.
3.Tmt.Nagavalli

... Respondents 1&2 /Respondents 1&2
... 3rd Respondent/3rd Claimant

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the order and decree passed by Learned Special District Judge cum Motor Accident Claims Tribunal, Trichy in M.C.O.P. 4441 of 2013 dated 10.06.2015.

For Appellants : Mr.K.P.Narayanakumar
For Respondent No.2 : Mr.A.Ilango

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the claimants as against the award passed in M.C.O.P. 4441 of 2013 dated 10.06.2015 by the Motor Accident Claim Tribunal, Special District Judge, Trichy.

2. It is a case of fatal accident that took place on 16.03.2007 at about 16 hours near Velu Amman Kovil. The driver of the lorry bearing registration No. TN-49-Y-1636 drove the vehicle in a rash and negligent manner and dashed against the motor cycle bearing Registration No.TN-45-AA-2812, in which, the deceased was riding. Due to the accident, the deceased sustained grievous injuries and died on the same day. The said accident occurred only due to the gross negligence on the part of the driver of the first respondent and the first respondent is the owner of the lorry, which is insured with the second respondent.

3. The claimants filed a Claim Petition in M.C.O.P. 4441 of 2013 dated 10.06.2015 on the file of the Motor Accident Claim Tribunal, Special District Judge, Trichy, seeking compensation.



4. Before the Tribunal, 3 witnesses were examined as P.W.s 1 to 3 and Exts.P.1 to P.7 were marked. On the side of the respondents, no oral and documentary evidence was adduced.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the claimants and the Insurance Company and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the lorry, which is insured with the second respondent Insurance Company and directed the Insurance Company to pay a sum of Rs.5,34,000/- (Rupees five lakhs and thirty four thousand only) as compensation.

6. Against which, the appellants/claimants 1 and 2 have filed this present appeal seeking enhancement of compensation.

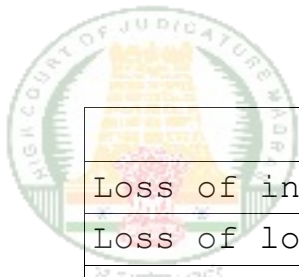
7. The learned counsel for the second respondent/ Insurance Company contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. The learned counsel for the appellants submitted that since the deceased was a bachelor, 50% towards future prospectus ought to have been added in the income of the deceased and the Tribunal determined the age of the mother of the deceased for adopting multiplier '14', which is against the settled law.

10. As per the settled legal position, as contended by the learned counsel for the appellants, in the present case, considering the age of the deceased age, multiplier '18' is to be adopted and since the deceased is a bachelor, while fixing the income of the deceased 50% is to be added.

11. In view of the settled law and to meet the ends of justice, this Court fixes the notional income of the deceased at Rs.6,000/- (Rupees six thousand only) and after adding 50% towards future prospects, a sum of Rs.9,000/- (Rupees Nine Thousand only) is arrived as the monthly income of the deceased and if 50% is deducted towards personal expenses, the monthly income of the deceased would be Rs.4,500/- (Rupees Four Thousand and Five Hundred only) and by applying the appropriate multiplier '18', the loss of income would be **Rs.9,72,000/-** (Rupees nine lakhs and seventy two thousand only) [Rs.4,500/- X 12X18]. The Tribunal awarded Rs.20,000/- towards loss of love and affection and that is increased to Rs.1,00,000/- and the amount awarded for funeral expenses is increased from Rs.10,000/- to Rs.25,000/-



Heads	Amount
Loss of income	Rs. 9,72,000/-
Loss of love and affection	Rs. 1,00,000/-
Funeral Expenses	Rs. 25,000/-
Total	Rs. 10,97,000/- rounded off to Rs.11,00,000/-

13. In the result, this Civil Miscellaneous Appeal is allowed enhancing the award of the Tribunal from **Rs.5,34,000/--** (Rupees five lakhs and thirty four thousand only) to a sum of **Rs.11,00,000/-** (Rupees eleven lakhs only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs and the award made in M.C.O.P. 4441 of 2013 dated 10.06.2015, on the file of the Motor Accident Claims Tribunal - cum - Special District Judge, Trichy is modified as above. It is made clear that the appellants are not entitled to interest for the delayed period. The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are permitted to withdraw their respective share as apportioned by the Tribunal, with proportionate interests and costs without filing any formal application before the Tribunal.. No Costs. Consequently, connected Miscellaneous Petition is closed. The additional court fee for the enhanced amount shall be paid within a period of two weeks from the date of receipt of copy of this judgment.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Special District Judge,
Motor Accident Claims Tribunal,
Trichy.

Copy To:-

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 65469

CM

TE/IC/SAB-I : 21/08/2017 : 3P/4C
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