



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.278 of 2015

1.Muthukarupayee

2.Kannan

... Appellants

Vs.

1. V.Srinivasan

2. The Divisional Manager,
New India Assurance Co. Ltd,
No.41/B, Victoria Street,
Thoothukudi - 628 001.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award passed in MCOP.No.42 of 2012, dated 21.11.2012 on the file of the I Additional District Judge / Motor Accident Claims Tribunal, Thoothukudi.

For Appellant : Mr.A.Thiruvadi Kumar
For Respondents : Mr.I.Robert Chandrakumar
for Mr.G.Prabhurajadurai for R-2
R1 given up

JUDGMENT

The claimants have filed this Civil Miscellaneous Appeal aggrieved by the inadequate compensation awarded in M.C.O.P.No.42 of 2012, dated 21.11.2012 on the file of the I Additional District Judge / Motor Accident Claims Tribunal, Thoothukudi.

2.The husband of the first appellant herein, namely, Perumal died in a road accident that took place on 07.06.2011. He was said to be aged 56 years. The vehicle belonging to the first respondent was driven in a rash and negligent manner and caused the accident. An eyewitness PW.2 was examined in support of this allegation. Crime No.90/2011 was registered on the file of the Ottapidaram police station against the offending driver. Therefore, the Tribunal came to the conclusion that the accident occurred only due to the rash and negligence driving of the driver



of the first respondent herein. Therefore, the second respondent as the insurer was held liable to satisfy the award. These findings have not been questioned by the respondents. It is only the claimants who have come to this Court seeking enhancement.

3. According to the claimants, the deceased was aged about 62 years. The counsel for the complainant would contend that the Tribunal went by the postmortem report. The claimants have marked ration card Ex.P5 and therefore the age of the deceased has to be fixed only as 62 years. However, the multiplier remains the same. Hence, loss of income can only be fixed at Rs.50,000/-. However, for loss of consortium and love and affection, the compensation can be fixed at a sum of Rs.1,00,000/-. For loss of estate there can be further sum of Rs.5,000/- fixed. A sum of Rs.25,000/- can be fixed for funeral expenses. Thus, the total would come to Rs.1,80,000/-. The award passed by the Tribunal is accordingly modified. The claimants are entitled to a sum of Rs.1,80,000/-. The second respondent is directed to deposit the balance amount within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same with accrued interest by filing an appropriate application before the Tribunal.

4. In the result, this Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The I Additional District Judge /
Motor Accident Claims Tribunal, Thoothukudi.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 82739
+ 1 CC TO Mr.A.THIRUVADIKUAMR, ADVOCATE IN SR No. 82607

SKM

TE/GT/SAR-3 : 27/11/2017 : 2P/5C

C.M.A. (MD) No.278 of 2015
12.10.2017