



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) No.774 of 2017

1.V.Illangiyam @ Muniyammal
2.K.Illangiyam
3.Minor V.Ajith
4.P.Mangi Gounder
(Minor 3rd Appellant represented
by his mother Illangiyam @ Muniyammal
1st Appellant herein)

... Appellants/Petitioners

Vs.

1. M.Kannan

2. The Branch Manager,
TATA AIG General Insurance Company Ltd.,
Branch Office,
3rd Floor, Jaya Enclave,
1057, Avinashi Road,
Coimbatore District.

... Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the Appeal and enhance the award passed in M.C.O.P.No.341 of 2013 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Karur dated 11.04.2016.

For Appellants : Mr.N.Sudhagar Nagaraj
For Respondent : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award passed in M.C.O.P.No.341 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur dated 11.04.2016.

2. It is a case of fatal accident, which took place on 06.06.2013 at about 20.15 hours at Palayam to Karur Main Road, near Vellapparai Bus Stop. When the deceased was riding TVS-50 motorcycle bearing Registration No.TN-39-H-6450 along with his wife, the lorry belonging to the first respondent bearing Registration No. TN-59-B-4820 came from the opposite side and dashed against the



deceased and he died.

3. The claimants filed an application in M.C.O.P.No.341 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur, seeking compensation.

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4. Before the Tribunal, the first claimant examined herself as P.W.1 and marked nine documents as Exs.P-1 to P-9. On the side of the appellant/Insurance Company, two witnesses were examined as R.W.1 and R.W.2 and five documents as Exs.R.1 to R.5 were marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the first respondent and the vehicle is insured with the second respondent/Insurance Company and directed the second respondent/Insurance Company to pay a sum of Rs.9,05,000/-, as compensation.

6. Against which, the claimants/appellants has filed this present appeal challenging the quantum of compensation awarded by the Tribunal.

7. Heard the learned counsel appearing for the appellants and perused the materials available on record.

8. The learned counsel for the appellants/claimants submitted that the deceased was self-employed person and the Tribunal has not considered any future prospects and he prays that the amount towards future prospects may be considered.

9. As per Sarla Verma's case, since the deceased was 40 years at the time of accident, 30% should be added towards future prospects and 1/4th should be deducted towards personal expenses. If the monthly income of the deceased is fixed at Rs.6,000/- and adding 30% towards future prospects and deducting 1/4th towards personal expenses, the amount would come to Rs.5850/-. By applying multiplier '15', the amount towards loss of income would come to **Rs.10,53,000/-** (5858 X 12 X 15).

10. The learned counsel for the claimants submitted that the amount granted Rs.20,000/- towards loss of consortium, which is very low. This Court grants **Rs.1,00,000/-** towards loss of consortium to the first claimant. The Tribunal grants Rs.50,000/- towards loss of love and affection to claimants 2 to 4. This Court grants **Rs.50,000/- each** to the claimants 2 to 4 towards loss of love and affection.

11. Under the head of Transport Charges and for funeral expenses the Tribunal awarded Rs.5,000 and Rs.15,000/- respectively. The same are confirmed by this Court.

12. This Court modifies the award of the Tribunal by enhancing the compensation as under:-

S.No	Description	By Tribunal (Rs)	By this Court (Rs)	Result
1.	Loss of dependency	8,10,000	10,53,000	enhanced
2	Loss of consortium	20,000	1,00,000	enhanced
3.	For loss of love and affection to C2-C4	50,000	1,50,000	enhanced
4.	Transport expenses	5,000	5,000	confirmed
6.	Funeral expenses	15,000	15,000	confirmed
	Total	9,05,000	13,23,0000	Enhancing 4,18,000/-

13. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.9,05,000/-** (Rupees nine lakhs and five thousand only) to a sum of **Rs.13,23,000/-** (Rupees thirteen lakhs and twenty three thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs; No costs.

(ii) The Insurance Company is directed to deposit the award amount with accrued interests and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective shares as apportioned by the Tribunal with accrued interests and costs, without filing any formal application before the Tribunal. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal District Judge,
Motor Accident Claims Tribunal, Karur.
- 2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.S.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 77269
+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 77222

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