



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A. (MD) No.8 of 2014

- 1.Ramian
- 2.Parameswari
- 3.Rajeswari
- 4.Rajesh

... Appellants/Petitioners

Vs.

- 1.Magesh
- 2.Vignesh
- 3.National Insurance company Ltd,
Nagercoil Branch,
Rep by its Branch Manager,
North Car Street, Nagercoil Village,
Agasteeswaram Taluk, Kanyakumari District.

4.S.R.Prabhu,

- 5.M.Nustin Bose
- ... Respondents/ Respondents
(Respondents 1,2,4 and 5 are remained
exparte before the Lower Court)

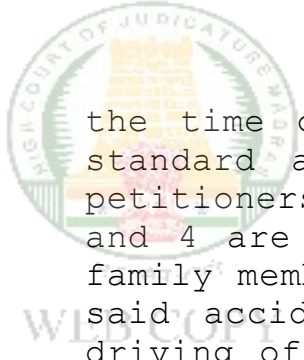
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount passed in M.C.O.P.No.51 of 2011, dated 19.12.2012, on the file of the Motor Accident Claims Tribunal - cum - District Judge, Kanyakumari District at Nagercoil.

For Appellants : Mr.K.Vamanan
For R3 : Mr.Baskara Pandian

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.No.51 of 2011, dated 19.12.2012, on the file of the Motor Accident Claims Tribunal - cum - District Judge, Kanyakumari District at Nagercoil.

2. It is a case of fatal accident that took place on 30.08.2009 at about 6.30 p.m at Puthukadai to Thengapattanam Road. The driver of the two wheeler bearing Reg.No.TN-75-A-4223 drove the vehicle in a rash and negligent manner and dashed against the motor cycle bearing Reg. No.TN-74-D-6772, in which, Rajesh was travelling as a pillion rider along with his friend Prabhu, who is 4th respondent. Due to the accident, the deceased sustained grievous injuries and died on the same day. At



the time of the accident, the deceased Ramesh was studying 12th standard at Government Higher Secondary School, Munchirai. The petitioners 1 and 2 are parents of the deceased. The petitioners 3 and 4 are sister and brother of the deceased Ramesh. The entire family members are depending upon the income of the deceased. The said accident had happened only due to the rash and negligent driving of the offending vehicle, which is insured with the third respondent.

3. The claimants filed a Claim Petition in M.C.O.P.No.51 of 2011, dated 19.12.2012, on the file of the Motor Accident Claims Tribunal - cum - District Judge, Kanyakumari District at Nagercoil, seeking compensation.

4. In order to prove their case, the second claimant was examined herself as P.W.1 and one Murugan was examined as P.W.2. Exs.P.1 to P.11 were marked. On the other hand, no oral and documentary evidence was adduced on the side of 3rd respondent.

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 offending vehicle, which is insured with the Insurance Company and directed the Insurance Company to pay a sum of Rs.2,10,000/- (Rupees two lakhs and ten thousand only) as compensation.

6. Against which, the appellants/Claimants have filed this present appeal questioning the quantum of compensation.

7. The learned counsel appearing for the appellants/claimants contended that the Tribunal was not justified in granting total compensation of Rs.2,10,000/- (Rupees two lakhs and ten thousand only) and the same should be enhanced.

8. Per contra, the learned counsel for the third 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.

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

10. The Tribunal, taking a sum of Rs.15,000/- (Rupees Six Thousand only) as annual income and after deducting 1/3rd towards personal expenses, fixed Rs.10,000/- as annual income and in consideration the age of the mother of the deceased, the Tribunal adopted '15' multiplier and fixed a sum of Rs.1,50,000/- towards life dependency of the family members.



11. Considering the well settled law and to meet the ends of justice, the notional income of the deceased is fixed 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 as per Sarla Verma's case by applying the appropriate multiplier '18', the loss of income would be Rs.8,64,000/- (Rupees eight lakhs and sixty four thousand only) [Rs.4,500/- X 12 X 18]. In all other heads, the amounts awarded by the Tribunal shall stand unaltered.

12. Total compensation is awarded in the following manner:

Heads	Amount
Loss of income	Rs. 8,64,000/-
Loss of love and affection (P1 and P2)	Rs. 20,000/-
Loss of love and affection (P3 and P4)	Rs. 20,000/-
Transport Expenses	Rs. 10,000/-
Funeral Expenses	Rs. 10,000/-
Total	Rs. 9,24,000/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the award made in M.C.O.P.No.51 of 2011, dated 19.12.2012, on the file of the Motor Accident Claims Tribunal - cum - District Judge, Kanyakumari District at Nagercoil is hereby modified. The total compensation is enhanced to Rs.9,24,000/- from Rs.2,10,000/-. The third respondent/Insurance Company is directed to deposit the entire enhanced award amount with accrued interests and costs, within a period of six 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 shares as apportioned by the Tribunal, with proportionate interests and costs without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petition is closed. The learned counsel for the appellants is directed to pay the additional court fee within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(C.O.)



To,
The Motor Accident Claims Tribunal, District Judge,
Kanyakumari District, Nagarcoil.

Copy to:

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

+1CC to Mr.A.K.Baskarapandian, Advocate, SR.No. 65183

+1CC to Mr.K.Vamanan, Advocate, SR.No.65149

C.M.A.(MD) No.8 of 2014
12.07.2017

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AM/KK/SAR 2/26.10.2017/4P/5C