



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.882 of 2015

1.D.Kiruthika
2.Minor.Sowkanthiha
3.P.Banumathi
4.G.Periyasamy
Minor 2nd Petitioner rep. by her
next Friend her mother D.Kiruthika ... Appellants/Petitioners
vs

1.The Managing Director,
M/s.Blue Minerals Private Ltd.,
No.9, Rayapandaram Street,
Avinasi Road, Tiruppur.
2.The Divisional Manager,
The Oriental Insurance Company Ltd.,
1st Floor, Gobal Rao Library Building,
Town Hall Road,
Kumbakonam-612 001. ...Respondents/Respondents

Prayer: Appeal filed under 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.348 of 2011 on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, dated 30.01.2014.

For Appellants : Mr.T.Selvakumaran

For R1 : No Appearance

For R2 : Mr.C.Ramachandran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of the compensation payable to them.

2.when the deceased Backkiyaraj was riding a two wheeler, a clipper lorry belonging to the first respondent dashed against the two wheeler. The said Backkiyaraj died in the ensuing accident.



The appellants herein filed M.C.O.P.No.348 of 2011, on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur seeking compensation.

3.The deceased was working as a contract labour and earning a sum of Rs.9,000/- per month. He was also doing sub contract business work and earning about a sum of Rs.50,950/-per annum. Fortunately, he was an income tax assessee also.

4.The learned counsel appearing for the appellants filed the income tax return, for the year 2010 - 2011, which was marked as Ex.P.26. The said income tax return was filed on 30.07.2010. The accident took place in the year 2011. Since the income tax return had been filed prior to the said accident, this Court can certainly go by the figures mentioned therein. It is seen from Ex.P.26 that the annual income of the deceased was Rs.1,58,950/-. Therefore, the monthly income of the deceased was Rs.13,000/- and the future prospects will have to be added, considering the nature of avocation, in which, the deceased was engaged.

5.I am of the view that the monthly income can be taken as Rs.17,000/-. The pecuniary loss, after 1/3rd deduction for the family will come to Rs.21,76,000/-. Conventional damages can be awarded to the tune of Rs.70,000/- . The deceased left behind a minor child and also aged parents and hence a sum of Rs.40,000/- each towards loss of love and affection can be awarded. Accordingly, the total compensation will come to Rs.23,26,000/-.

6.Therefore, the compensation awarded by the Tribunal is enhanced from Rs.18,19,600/- to Rs.23,26,000/-. The order dated 30.01.2014, made in M.C.O.P.No.348 of 2011, on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, is accordingly modified.

7.The second respondent is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw their share as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The share of the minor claimant shall be deposited in any one of the Nationalised Bank. The natural guardian of the second appellant is permitted to withdraw the interest there from once in three months directly from the Bank.



will be entitled to their share of the compensation in the same proportion laid down by Tribunal below. No costs.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
(Principal District Judge), Karur.

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

+ 1 cc TO Mr.T.Selvakumaran , Advocate in SR No. 89161

+ 1 cc TO Mr.C.Ramachandran , Advocate in SR No. 88795

cp

AE/KKR/SAR1/23.02.2018/3P/6C

JUDGMENT MADE IN
C.M.A. (MD) No.882 of 2015
22.11.2017