



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.964 of 2014

and

C.M.P. (MD)No.7635 of 2017

1.R.Dhanalakshmi
2.T.Murugesan
3.R.Backiyalakshmi ... Appellants /Petitioners

Vs.

1.M.Sivakannan
2.The Manager,
United Insurance Company Ltd.,
No.9/1/2, Ramakrishnapuram(North),
Karur-1. ... Respondents/Respondents
(1st Respondent set Exparte by the Tribunal
Hence notice may be give up against R1 herein)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.217 of 2011, on the file of the Motor Accident Claims Tribunal (District Judge), Karur, dated 16.10.2012.

For Appellants :Mr.N.Sudhagar Nagaraj

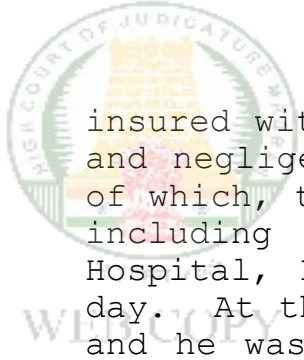
For Respondents :Mr.M.Sivakumar
for R.1
:Mr.J.S.Murali
for R.2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants against the Judgment and decree dated 16.10.2012 made in M.C.O.P.No.217 of 2011, on the file of the Motor Accident Claims Tribunal (District Judge), Karur, seeking enhancement of compensation.

2. The brief facts of the case are as follows:

It is a case of fatal accident took place on 23.04.2011 at <https://hccourtscou.gov.in/cases/> in Karur-Kovai road. While the deceased viz., Thirumalaisamy was standing at the centre median, the first respondent's jeep bearing Registration No.TN-47-K-4505, which was



insured with the second respondent Insurance Company came in a rash and negligent manner and dashed against the deceased. As a result of which, the deceased sustained grievous injuries all over the body including head injury. Immediately, he was taken to Government Hospital, Karur, however he succumbed to the injuries on the same day. At the time of accident, the deceased was aged about 64 years and he was earning a sum of Rs.4,000/- per month by working as a watchman. Hence, the petitioners, who are the legal heirs of the deceased, filed a claim petition in M.C.O.P.No.217 of 2011, on the file of the Motor Accident Claims Tribunal (District Judge), Karur, claiming a sum of Rs.4,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, two witnesses viz., P.Ws.1 and 2 were examined and 5 documents viz., Exs.P.1 to P.5 were marked and on the side of the respondents, neither any witness was examined and nor any document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending vehicle and directed the Insurance Company to pay a sum of Rs.1,10,000/-, as compensation under the following heads:

for loss of income	= Rs. 70,000/-
for loss of love and affection	
(each Rs.10,000/-)	= Rs. 30,000/-
for funeral expenses	= Rs. 5,000/-
for transport expenses	= Rs. 5,000/-

Total	= Rs.1,10,000/-

5. Against which, the appellants/claimants have filed this present appeal seeking enhancement of compensation.

6. The learned Counsel for the appellants would submit that while arriving loss of income, the Tribunal has wrongly taken a meagre amount of Rs.15,000/- as annual income of the deceased and arrived lesser amount towards loss of income and hence, the amount awarded under the head of loss of income should be modified. He further submitted that the amount awarded by the Tribunal under the various heads also very meagre. Hence, he prays this Court for enhancing the compensation.

7. The learned counsel for the respondents would submit that based on the available oral and documentary evidences, the Tribunal has arrived at just and proper compensation under various heads. Hence, he prays for dismissal of this appeal.

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



9. As contended by the learned Counsel for the appellants/claimants, since the Tribunal has taken the meagre amount for arriving loss of income, this Court is inclined to modify the same. Accordingly, by considering the occupation of the deceased, a sum of Rs.4,000/- is taken as monthly income of the deceased and after deducting 1/3rd towards his personal expenses and adopting multiplier "7" as per the decision of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, the loss of income would be arrived at as follows:

$$\text{Rs.4,000/-} \times 2/3 \times 7 \times 12 = \text{Rs.2,24,000/-}$$

The amount awarded by the Tribunal towards loss of love and affection is very meagre, taking into account the number of legal heirs. Hence, this Court is inclined to enhance the same to a sum of Rs.50,000/- towards loss of love and affection. The amount awarded by the Tribunal under other heads stand unaltered. Therefore, this Court enhanced the compensation awarded by the Tribunal from Rs.1,10,000/- to Rs.2,84,000/- under the following heads:

for loss of income	= Rs.2,24,000/-
for loss of love and affection	= Rs. 50,000/-
for funeral expenses	= Rs. 5,000/-
for transport expenses	= Rs. 5,000/-

Total	= Rs.2,84,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation awarded by the Tribunal in M.C.O.P.No.217 of 2011, dated 16.10.2012, from Rs.1,10,000/- to Rs.2,84,000/- (Rupees Two Lakhs and Eighty Four Thousand Only) with 7.5% interest per annum. The second respondent Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and less the amount already deposited if any and on such deposit being made, the appellants/claimants are permitted to withdraw the entire award amount with accrued interests and costs as apportioned by the Tribunal, without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To



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

+1cc to Mr.N.SUDHAKAR NAGARAJ Advocate in SR. No.73163
+1cc to Mr.J.S.MURALI Advocate in SR. No.73274

SSL
JS/KP/SAR.1/12.09.2017/4P-5C

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