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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1075 of 2018

1.K.Natarajan
2.N.Ezhilarasi .. Appellants/Petitioners

Vs

1.A.Kasthuri
2.The New India Assurance Company Limited
Motor third party claims hub
No.45, Moore Street
Chennai - 600 001. .. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 08.01.2018 made in M.A.C.T.O.P.No.8030 of 2013 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes, Chennai).

For Appellant : Mr.F.Terry Chella Raja

For Respondents: Mr.C.Ramesh Babu for R2
R1-Exparte

JUDGMENT

[Judgment of the Court was made by N.KIRUBAKARAN, J]

The appeal has been preferred by the claimants aggrieved with the quantum of Rs.13,11,000/- as compensation for the death of their son one Dinesh Kumar, aged about 22 years, a Second year M.C.A. Student in VIT University, Vellore and allegedly earning a sum of Rs.20,000/- as a Computer Operator, in the accident occurred on 04.01.2013, when he was standing at Keelkottaiyur Bus Stop and hit down by a Lorry, belonging to the first respondent insured with the second respondent Insurance Company, driven rash and negligently.

2. Heard Mr.F.Terry Chella Raja, learned counsel appearing for the appellants and Mr.Ramesh Babu, learned counsel appearing for the second respondent Insurance Company.



3. The appeal has been preferred by the claimants and there is no appeal by the second respondent-Insurance Company and therefore, the issue of negligence, as fixed by the Tribunal already attained finality.

4. The only question to be decided is with regard to the quantum of compensation.

5. It is proved by the claimants before the Tribunal through Ex.P.6-Decree Certificate, Ex.P.7-College ID and Ex.P.8-College Mark sheet that the deceased was already a degree holder and he is under going M.C.A. Course. The Tribunal took a sum of Rs.8,000/- as monthly notional income considering the fact that the deceased was pursuing M.C.A. Graduate, added 50% towards future prospects and deducted 50% towards personal expenses, determined the loss of income at Rs.6,000/- p.m.

6. As rightly pointed out by Mr.F.Terry Chellaraj, learned counsel appearing for the appellants, a Division Bench of this Court in Managing Director, Metropolitan Transport Corporation Ltd., Chennai Vs. K.Murugesan reported in 2014 (1) TNMAC 370 (DB) determined the monthly income of an Engineering Student at Rs.20,000/-, who died in the accident occurred in 2012. Hence, the amount determined by the Tribunal is very low and therefore, this Court fixes the monthly income of the deceased at Rs.15,000/-, as in this case, the deceased pursuing M.C.A graduate.

7. Though the Tribunal added 50% towards future prospects, as per the age of the deceased 40% alone has to be added towards future prospects and if 40% is added, the monthly income would be at Rs.21,000/- [Rs.15,000 + 6,000 (40% of Rs.15,000)]. The annual income would be at Rs.2,52,000/- [Rs.21,000X12]. From the said amount, the income tax has to be deducted and the income tax is determined at Rs.5,200/-. After deduction of the income tax, the annual income would be at Rs.2,46,800/- .

8. Since the deceased was a bachelor, the Tribunal has rightly deducted 50% towards personal expenses of the deceased and this Court also, by following the same method, determines the loss of annual income at Rs.1,23,400/- [Rs.2,46,800/2].

9. The age of the deceased, as proved by Exs.P5, P6 and P7, is 22 and the appropriate multiplier, as per age, is '18' and the loss of income would be at Rs.22,21,200/- [Rs.1,23,400 X 18].

10. The Tribunal has awarded a sum of Rs.15,000/- towards funeral expenses and the same is confirmed.



11. The Tribunal has not awarded any amount towards loss of estate and therefore, a sum of Rs.15,000/- is awarded under this head. Similarly, no amount was awarded towards Transportation. Hence, a sum of Rs.10,000/- is awarded under this head.

12. The Tribunal has not awarded any amount towards loss of love and affection and therefore, this Court awards a sum of Rs.1 lakh under this head, as the parents lost their only son.

13. The rate of interest at 9% p.a. awarded by the Tribunal is hereby modified to 7.5% p.a. The details of the modified compensation as per the above discussion are as under:

Head	Amount (Rs.)
Loss of income	22,21,200
Funeral Expenses	15,000
Loss of Estate	15,000
Transportation	10,000
Loss of love and affection	1,00,000
Total	23,61,200

14. Hence, the award of Rs.13,11,000/- is enhanced to Rs.23,61,200/- along with interest to 7.5% p.a.

15. The second respondent/Insurance Company is directed to deposit the entire amount along with interest and costs within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the entire award amount to the bank account of the appellants/claimants equally with interest and costs through RTGS within a period of one week thereon.

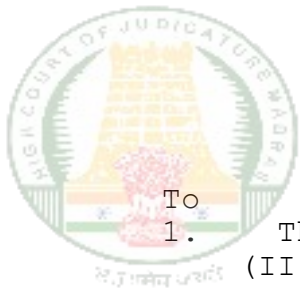
16. Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation amount of Rs.13,11,000/- to Rs.23,61,200/-. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

vsm



To

1. The Motor Accident Claims Tribunal
(II Court of Small Causes, Chennai).

2. The Section officer

VR Section, High Court, Madras 104.

+2 Ccs to Mr.C.Ramesh Babu, Advocate sr 50748.

+1 CC to Ms.M. Malar, Advocate sr 51277.

C.M.A.No.1075 of 2018

MR(CO)

SP(11/02/2019)