IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

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The Hon'ble Mr.Justice R.Subbiah
and
The Hon'ble Mr.Justice P.D.Audikesavalu

C.M.A.No.2279 of 2016

1.Ranjitham
2.S.Mohanraj ... Appellants/Petitioners

Vs.

1.Uma Vijayakumar

2.HDFC Ergo Insurance Co. Ltd.,
Rehja Complex,
No.177, Anna Salai,
Chennai-600002. ... Respondents/Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award dated 19.09.2013 in M.A.C.T.O.P.no.3560 of 2007 on the file of the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court), Chennai.

For Appellants : Mr.F. Terry Chellaraj for Mr.Velu

Respondent -1 : Exparte
For Respondent-2 : Ms.C. Harini for M/s.M.B.Gopalan

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JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Chief Judge, Small Causes Court), Chennai, in and by award dated 19.09.2013 in M.A.C.T.O.P.No.3560 of 2007, the claimants have filed the present appeal seeking enhancement of the compensation amount.

2.As the present Appeal is filed only questioning the quantum of compensation awarded by the Tribunal, it is not necessary for this Court to traverse into the other aspects of the award passed by the Tribunal.

3. The appellants/claimants are the parents of the deceased Karthick Raju. It is the case of the claimants that on 09.12.2006 at 5.15 pm, while the said Karthick Raju was travelling along with his friends in a car bearing Reg.No.TN-09-AK-2165 from Chennai to Pondicherry, near Seekkanankuppam Village, Kancheepuram District, the driver of the said car drove the same in a rash and negligent manner and hit against a transport bus, which was coming from opposite direction. In the said accident, the said Karthcik Raju sustained multiple injuries all over the body and died on the spot. Hence, the claimants, being the mother and father of the deceased made a claim for a sum of Rs.40,00,000/- as against the owner of the said car and its insurer viz., the respondents herein.

4.Before the Tribunal, the 2nd respondent-Insurance Company resisted the case of the claimants, by filing a counter statement, stating that they are not liable to pay the compensation amount.

5.In order to the prove the case, before the Tribunal, on the side of the claimants, the first claimant examined herself as P.W.1, besides examining four other witness as P.W.2 to P.W.5 and marked 35 documents as Ex.P.1 to Ex.P.35. On the side of the Insurance Company, two witnesses were examined as R.W.1 & R.W.2 and six documents were marked as Ex.R.1 to Ex.R.6.

6.The Tribunal, after analysing the entire evidence, has come to the conclusion that the accident is the result of the rash and negligent driving of the driver of the car bearing Reg.No.TN-09-AK-2165. By coming to such a conclusion, the Tribunal has made the calculation under different heads and passed an award for a total sum of Rs.13,90,000/- as compensation, as against the claim of Rs.40,00,000/-. The break up details of the compensation amount awarded by the Tribunal are as follows_

i)	Pecuniary Loss	:	Rs.13,50,000
ii)	Love and Affection	:	Rs. 25,000
iii)	Funeral Expenses	:	Rs. 10,000
iv)	Transportation	:	Rs. 5,000
	Total	:	Rs.13,90,000/-

Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come forward with the present appeal, as stated supra.

7.It is the submission of the learned counsel for the appellants/claimants that the deceased Karthick Raju was aged 22 years at the time of accident and he was working as Administrative Officer in ICICI Bank, Chennai, and was earning a sum of Rs.22,000/- per month and based on the said salary, the appellants/claimants have made a claim for a sum of Rs.40,00,000/- as compensation. In order to prove the claim of the claimants, the first claimant examined herself as P.W.1, besides examining the Chief Manager of the ICICI Bank as P.W.4, and marked the salary statement of the deceased as Ex.P.9. The Tribunal, by placing reliance on the evidence of P.W.4 and Ex.P.9, has fixed the monthly income of the deceased as Rs.15,750/- and by deducting the allowances towards conveyance, transport and lunch, fixed the actual monthly income at Rs.12,500/-. Thereafter, by deducting 50% towards personal expenses of the deceased, by applying applier of '18', the Tribunal has passed an award for a sum of Rs.13,50,000/- under the head of Pecuniary Loss.

8. The grievance of the appellants is that the Tribunal while awarding compensation under the head of Pecuniary Loss has failed to add any amount towards future prospects. Hence, according to the learned counsel for the appellants/claimants, by adding 50% towards future prospects, the compensation amount awarded by the Tribunal under the head of Pecuniary Loss has to be enhanced.

9. The learned counsel would further contend that the amount awarded by the Tribunal under other heads are also on the lower side. Thus, he prayed for proper enhancement of compensation under other heads also.

10.Per contra, the learned counsel for the second respondent/Insurance Company has made her submissions supporting the award passed by the Tribunal.

11. Keeping the submissions made on either side, We have carefully gone through the entire materials available on record. As rightly pointed out by the learned counsel appearing for the appellants/claimants, the Tribunal has failed to add any amount towards future prospects and failure to do so has resulted in awarding an inadequate compensation under the head of pecuniary loss. Since the deceased was working as Administrative Officer in the ICICI Bank and aged 22 years, 50% of the monthly income has to be added towards the future prospects of the deceased. If the monthly is taken as Rs.12,500/- and 50% amount is added towards future prospects, then the total monthly income comes to Rs.18,750/- (12,500 + 6,250). Then, 50% amount has to be deducted towards personal expenses and if so deducted, the loss of monthly contribution to the family works out to Rs.9,375/-

(18,750-9,375). As the age of the deceased is 22 years the time of death, the correct multiplier that has to be applied in this case is 18. If the multiplier 18 is applied, then the total loss of income works out to Rs.20,25,000/- (9,375 x 12 x 18). Consequently, the sum of Rs.13,50,000/- awarded by the Tribunal under the head of pecuniary loss is hereby modified and enhanced to Rs.20,25,000/-.

12. Similarly, considering the fact that the claimants1 and 2/parents have lost their only son in the accident at the young age, we feel that the compensation of Rs.25,000/- awarded by the Tribunal under the head of Loss of Love and Affection is inadequate; hence, the same is hereby enhanced to Rs.40,000/-. Similarly, the Tribunal has awarded only a sum of Rs.10,000/- under the head of Funeral Expenses, which appears to be on the lower side, hence, the same is hereby enhanced to Rs.15,000/-. Further, it is seen that the Tribunal has not awarded any amount for loss of estate. Hence, a sum of Rs.15,000/- is hereby awarded for loss of estate. So far as the sum of Rs.5,000/- awarded by the Tribunal under the head of Transportation is concerned, the same is retained. Thus, the total compensation amount of Rs.13,90,000/- awarded by the Tribunal is hereby modified and enhanced to Rs.21,00,000/-. The break up details of the modified/enhanced compensation amount are as follows_

i)	Pecuniary Loss	:	Rs.20,25,000
ii)	Love and Affection	:	Rs. 40,000
iii)	Funeral Expenses	:	Rs. 15,000
iv)	Loss of Estate	:	Rs. 15,000
v)	Transportation	:	Rs. 5,000
			....
	Total	:	Rs.21,00,000/-
			....

13.In fine, the appeal is partly allowed and the total compensation amount of Rs.13,90,000/- awarded by the Tribunal is hereby modified and enhanced to Rs.21,00,000/-. The 2nd respondent/Insurance Company is directed to deposit the entire modified/enhanced compensation amount, after deducting the amount if any already deposited, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants/claimants are entitled to withdraw their respective share as apportioned by the Tribunal with proportionate interest accrued thereon by making necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To
The (Chief Judge, Small Causes Court)
Motor Accident Claims Tribunal, Chennai.

+1cc to Mr.V.VELU, Advocate, S.R.No. 13167

C.M.A.No.2279 of 2016

GJ(CO)
TR(18/06/2018)