

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.1977 OF 2017

1.Ramakrishna
2.K.Eswari
3.R.Hemavathy

... Appellants/Petitioners

-VS-

1.S.Boopathy
2.R.Sivan
3.Reliance General Insurance Co. Ltd.,
rep.by its Manager. ... Respondents/Respondents

PRAYER: Appeal against the judgment and decree, dated 17.10.2012, passed in M.C.O.P.No.128 of 2010, on the file of Principal District Court-cum-Motor Accident Claims Tribunal, Krishnagiri.

For appellants : Mr.T.Saravanan
For respondent 3 : Mr.S.Arun Kumar

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Krishnagiri, the claimants are before this Court.

2. In an accident that had taken place on 08.06.2008, the son of appellants-claimants 1 and 2 and brother of appellant-claimant 3 died due to the multiple injuries he sustained. He was taken to Bangalore for treatment and had succumbed to injuries after two months i.e., on 03.10.2008. According to the appellants, the deceased was employed as a driver and broker of two wheelers and earning a sum of Rs.9,000/- per month. Following his death, the appellants have laid a claim for a sum of Rs.10.00 lakhs towards compensation before the Tribunal. The third respondent-insurance company denied the accident and the liability.

3. To prove the claim, on the side of the appellants, the first appellant was examined himself as M.W.1; the pillion rider as M.W.2; and documents Exs.A-1 to A-8 were marked. On the side of respondents, none was examined and no document was also marked.

4. On the basis of the material available before it, the Tribunal has awarded a sum of Rs.4,71,019/- as compensation with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. As stated above, not content with the said award, the claimants have filed this Civil Miscellaneous Appeal.

5. The deceased was aged 18 years, whereas, the Tribunal has applied the multiplier on the basis of the age of the claimants at 11; the Tribunal has also not taken the monthly income of the deceased at Rs.9,000/- as claimed by the claimants, but fixed the same at Rs.4,500/- and after deducting 1/3rd towards personal and living expenses, the Tribunal arrived at Rs.36,000/- as annual income of the deceased. Based on the same, the loss of income of the deceased was calculated at Rs.3,96,000/-. The Tribunal has also awarded a sum of Rs.10,000/- towards 'loss of love and affection'; Rs.10,000/- towards 'funeral expenses', and Rs.55,019/- towards 'medical expenses'. The Tribunal has not awarded any amount under the heads 'loss of estate', 'transportation' and 'future prospects'.

6. I have heard the contentions of the appellant and also the contesting third respondent.

7. Admittedly, the age of the deceased was 18 years, as could be seen from Ex.A-6, Driving Licence. The accident is proved by Ex.A-1, F.I.R.; Ex.A-2 Post-mortem Certificate; and Ex.A-5, Death Certificate. The cause of death due to the injuries suffered in the accident was proved by Ex.A-7, Discharge Summary, and liability to pay compensation by the third respondent-insurance company has been proved by Ex.A-3, Insurance Policy.

8. As discussed above, the witnesses would speak about the employment status of the deceased and there is no contra evidence on the side of the respondents to the same. Therefore, it can be safely concluded that had the deceased been alive, he would have earned a minimum of Rs.200/- per day, based on the present cost index, and, as such, the income of the deceased has been fixed at Rs.6,000/- per month. Since the deceased was aged only 18 years at the time of death, 50% shall be awarded towards 'future prospects', as per the judgment of the Hon'ble Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation, 2009 (6) SCC 121, which comes to Rs.3,000/-. For the death of a person, who is aged 18 years, the proper multiplier is '18'. Since the deceased was a bachelor, 50% of the income shall be deducted towards 'personal and living expenses'. Taking into account all the above factors, the loss of income of the deceased shall be arrived at $\text{Rs.6,000} + 3,000 / 2 \times 12 \times 18 = 9,72,000/-$. The Tribunal has awarded 'medical expenses' on the

basis of admissibility of the bills at Rs.55,019/-, which, in the considered opinion of this Court, is just and reasonable. Further, the Tribunal has awarded a sum of Rs.10,000/- towards 'funeral expenses', which is increased by Rs.5,000/-, which comes to Rs.15,000/-. Towards 'loss of estate', no amount has been awarded by the Tribunal. Therefore, a sum of Rs.15,000/- is awarded under that head. It is seen from the records that the accident had taken place at Hosur and the deceased was taken to Bangalore, where he had undergone treatment for two months. For the treatment, during transit from the place of accident to the hospital, and on intermittent occasions, expenses could have been incurred by the deceased towards transportation. Therefore, a sum of Rs.20,000/- is awarded under the head 'transportation'. Accordingly, the compensation is reworked as under :

1. Loss of income	-	Rs. 9,72,000/-
2. Medical expenses	-	Rs. 55,019/-
3. Loss of estate	-	Rs. 15,000/-
4. Transportation	-	Rs. 20,000/-
5. Funeral expenses	-	Rs. 15,000/-

Total		Rs.10,77,019/-

9. Altogether, the Tribunal has awarded a sum of Rs.4,71,019/- as compensation. On reworking by this Court, the said award is enhanced by Rs.6,06,000/-. Learned counsel for the third respondent-insurance company would submit that they have deposited the entire amount awarded by the Tribunal along with interest at the rate of 7.5% per annum and the same has been withdrawn by the appellants. In view of the enhancement made hereinabove, the third respondent-insurance company is directed to deposit the enhanced amount of Rs.6,06,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are entitled to withdraw the same.

10. Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS V)
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Sub Assistant Registrar

dixit/tk

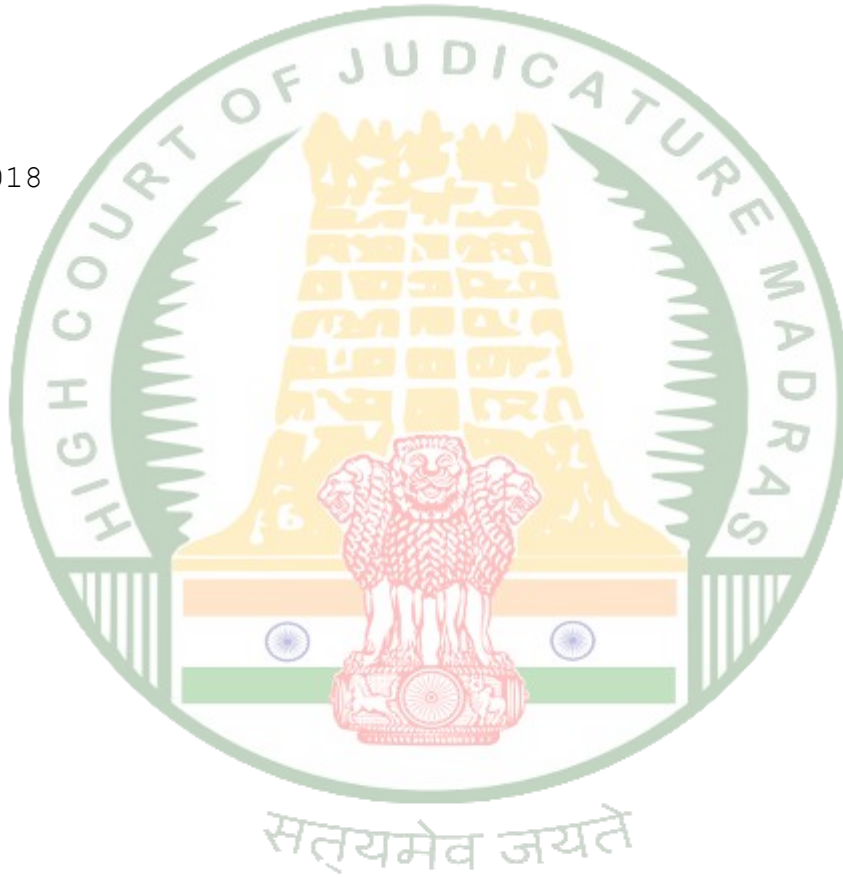
To

1.Principal District Court
- Motor Accident Claims Tribunal,
Krishnagiri.

+1 cc to Mr.T.Saravanan Advocate sr 2070
+1 cc to Mr.S.Arunkumar Advocate sr 1983

C.M.A.NO.1977 OF 2017

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