

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.No.2413 of 2018

- 1.Suleka
- 2.Menaka
- 3.Renuka

... Appellants/Petitioners

Vs.

- 1.Sakthivel

- 2.United India Insurance Co. Ltd.,
Divisional Office, Ranga Buildings,
Peramanur Main Road, Salem-7.

- 3.Muniappan, Proprietor
Thirumagal Bus Service,
5/33, Bhavani Main Road,
Kalingarayanpalayam, Bhavani.

- 4.National Insurance Co. Ltd,
Divisional Office, LRN Building,
P.B.No.772, Saradha College Road,
Salem 636 007.

- 5.R.Mani

- 6.C.Selvakumar

.. Respondents/Respondents

(R1, R3 & R6 set exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 12.11.2013 made in M.C.O.P.No.1049 of 2007 on the file of the I Additional District Judge, (Motor Accident Claims Tribunal), Salem.

For Appellants : Mr.M.Thanu
For R2 : Mr.S.Arunkumar
For R4 : Ms.Sreevidhya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the award dated 12.11.2013 made in M.C.O.P.No.1049 of 2007 on the file of the I Additional District Judge, (Motor Accident Claims Tribunal), Salem.

2.By consent of both the parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellants are the claimants. They have filed M.C.O.P.No.1049 of 2007, on the file of the I Additional District Judge, (Motor Accident Claims Tribunal), Salem, claiming a sum of Rs.17,00,000/- as compensation for the death of one Unnikrishnan, husband of the 1st appellant and father of the appellants 2 and 3, who died in the accident that took place on 05.05.2007.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the 1st respondent as well as the driver of the bus belonging to the 3rd respondent and awarded a sum of Rs.12,52,032/- as compensation to the appellants and directed the respondents 1 to 4 to pay the same jointly and severally with interest at the rate of 7.5% p.a.

5.Not being satisfied with the compensation awarded by the Tribunal, the appellants have come out with this appeal seeking enhancement of the same.

6.Though in the grounds of appeal, the appellants raised various grounds for enhancement of compensation, at the time of arguments, the learned counsel for the appellants restricted his arguments with regard to enhancement of compensation towards loss of consortium and funeral expenses. He also claimed compensation towards loss of estate, as the Tribunal failed to award any amount under the said head.

7.The learned counsel for the respondents 2 and 4 independently argued that the amounts awarded by the Tribunal under various heads are not meager and the appellants are not entitled for any enhancement and prayed for dismissal of the appeal.

8.Heard the learned counsel for the appellants as well as the respondents 2 and 4 and perused the materials available on record.

9.From the award of the Tribunal, it is seen that the amounts awarded under the heads of loss of consortium as well as funeral expenses are meager. As per the judgment of the Hon'ble Apex Court reported in 2017(2)TNMAC 609 (SC) [National Insurance Co. Ltd., v. Pranay Sethi and others], the 1st appellant is entitled to Rs.40,000/- towards loss of consortium and appellants are entitled to a sum of Rs.15,000/- towards loss of estate. The amount of Rs.5,000/- awarded by the Tribunal towards funeral expenses is enhanced to Rs.15,000/-. Following the ratio in the above judgment of the Hon'ble Apex Court, the award of the Tribunal is modified as stated above and the amount ordered under the head of transportation charges is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	12,22,032/-	12,22,032/-	confirmed
2.	Loss of consortium	20,000/-	40,000/-	enhanced
3.	Transportation	5,000/-	5,000/-	confirmed
4.	Loss of estate	-	15,000/-	granted
5.	Funeral expenses	5,000/-	15,000/-	enhanced
	Total	12,52,032/-	12,97,032/-	Enhanced by Rs.45,000/-

10.The respondents 1 to 4 are directed to deposit the enhanced award amount of Rs.12,97,032/- with proportionate interest and costs, to the credit of M.C.O.P.No.1049 of 2007, passed by the I Additional District Judge, (Motor Accident Claims Tribunal), Salem, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are entitled to withdraw the enhanced award amount as per the ratio of apportionment fixed by the Tribunal,

less the amount already withdrawn, if any, with interest by making necessary application before the Tribunal. It is made clear that the appellants/claimants shall not be entitled for any interest for the delay period in filing the appeal.

11.In the result, this Civil Miscellaneous Appeal is partly allowed, enhancing the amount awarded by the Tribunal from Rs.12,52,032/- to Rs.12,97,032/-. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa
To

1.The I Additional District Judge,
(Motor Accident Claims Tribunal),
Salem.

2.The Section Officer,
VR Section, High Court,
Madras (2Copies)

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.77894

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.78086

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No.78482

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SKV(CO)
GSP(23/01/2019)

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