IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2936 of 2018

1.Usharani
2.Puttaraj ... Appellants /Petitioners

Vs.

1.V.S.T.Motors Limited,
50-H 23 and 24, Royakotth Road,
Hosur Taluk, Hosur,
Krishnagiri District.

2.The Branch Manager,
New India Assurance Company Ltd.,
Sethu Krishna Trading Centre,
No.133/31A, II Floor,
Trichy Main Road, Gugai,
Salem - 636 006. ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 14.12.2015 made in M.C.O.P.No.356 of 2014 on the file of Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr.C.Prabakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 14.12.2015 made in M.C.O.P.No.356 of 2014 on the file of Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

2.The appellants are the claimants in M.C.O.P.No.356 of 2014 on the file of Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. They filed the above said claim petition claiming a sum of Rs.20,00,000/- for the death of their son viz., Akhil, who died in the accident that took place on 31.07.2014.

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3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the lorry belonging to the first respondent and directed the respondents to pay a sum of Rs.5,70,000/- as compensation jointly and severally to the appellants/claimants.

4.Not being satisfied with the award amount passed by the Tribunal, the appellants have come out with the present appeal for enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the Tribunal erred in fixing notional income of the deceased at Rs.5,000/- per month. The Tribunal ought to have fixed a sum of Rs.10,000/- as the notional income of the deceased. The Tribunal has not awarded any amount towards future prospects. The amount awarded by the Tribunal towards loss of love and affection and other heads are meager and prayed for enhancement of compensation.

6.Heard the learned counsel appearing for the appellants and perused all the materials available on record.

7.From the materials on record, it is seen that the deceased was a minor and was aged 8 years at the time of accident. As per the second schedule, the annual income of the deceased minor has to be fixed only at Rs.15,000/-. The Hon'ble Apex Court considering the passage of time as well as increase in cost of living has held that annual income of the deceased is to be fixed at Rs.30,000/- per year. In the present case, the Tribunal has fixed annual income of the deceased at Rs.60,000/- and deducted 50% towards personal expenses from the annual income and applying multiplier '15', as per the second schedule applicable to the deceased minor and has awarded a sum of Rs.4,50,000/- (Rs.30,000/- X 15 = Rs.4,50,000/-) as compensation towards loss of income. The Tribunal has awarded a sum of Rs.50,000/- for each of the appellant for loss of love and affection, Rs.4,000/- towards transportation, Rs.1,000/- towards damages to clothes and a sum of Rs.15,000/- towards funeral expenses. Thus, the Tribunal has awarded a total sum of Rs.5,70,000/- as compensation to the appellants/claimants and the same is not meager. The amounts awarded by the Tribunal under different heads are not meager and there is no reason to interfere with the said award for enhancement of compensation.

8.Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The second respondent/Insurance Company and the first respondent/owner of the lorry are directed to deposit the award

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amount jointly and severally along with interest and costs, less the amount deposited, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw the respective share of the award amount as per the ratio of apportionment fixed by the Tribunal, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

Special District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

+1cc to M/S.C.Prabakaran, Advocate Sr.87856

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