



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) .No.926 of 2014

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1.V.Saraswathy

2.Minor V.Sree Sathreesh

3.M.Ganapathy

4.G.Ayee

...Appellants / Petitioners

(The minor 2nd appellant is represented through his mother and next friend viz., the 1st appellant viz., Mrs.V.Saraswathy.)

Vs.

1.N.Jahangir

2. Cholamandalam M/s.General Insurance
Company Limited, No.10-H, 1st Floor,
Thiruvananthapuram Road,
Palayamkottai,
Tirunelveli.

... Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 26.06.2013, made in M.C.O.P.No.1856 of 2010 passed by the Motor Accident Claims Tribunal / III-Additional District Judge (PCR), Madurai.

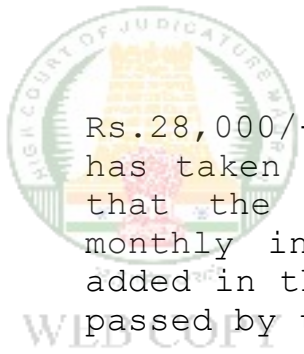
For Appellants	: Mr.K.Kumaravel
For 1 st respondent	: Mr.N.Jahangir
	Party-in-Person
For 2 nd respondent	: Mr.S.Srinivasa Raghavan

JUDGMENT

Heard the learned counsel appearing for both sides and perused the records carefully.

2. It is a case of fatal. The manner of the accident is not in dispute. The appellants / claimants have filed this appeal seeking to enhance the compensation awarded by the Tribunal.

3. The learned counsel appearing for the appellants / Claimants submitted that though the deceased was earning a sum of



Rs.28,000/- p.m. by doing Auto Consultancy business, the Tribunal has taken only a sum of Rs.4,500/- p.m. He would further submit that the Tribunal has failed to add future prospects in the monthly income of the deceased and therefore, the same may be added in the monthly income of the deceased and thereby, the award passed by the Tribunal may be enhanced.

4. The learned counsel appearing for the respondents in unison submitted that the claimants have failed to prove the income of the deceased by producing any valid documents and therefore, the notional income fixed by the Tribunal may not be interfered with and as the Tribunal has already awarded higher compensation, the future prospects may not be added. Thus, they prayed to dismiss the appeal.

5. It is seen from the record that the claimants have stated that the deceased was earning a sum of Rs.28,000/- p.m. However, they have not produced any document in order to substantiate the same. The Tribunal, after considering the age, family circumstances and year of the accident, has notionally fixed a sum of Rs.4,500/- p.m. as monthly income of the deceased. This Court does not find any reason to interfere with the same.

6. As rightly stated by the learned counsel for the petitioner, while calculating the loss of income of the deceased, the Tribunal has failed to add the future prospects. Hence, this Court is inclined to add future prospects in the monthly income of the deceased. If future prospects 40% is added with the monthly income of the deceased, it comes to Rs.6300/- p.m. (Rs.4,500/- + Rs.1800/- (40%) = Rs.6300/-). Considering the number of dependants, the Tribunal has rightly deducted $1/4^{\text{th}}$ amount for personal expenses. If $1/4^{\text{th}}$ amount is deducted from the monthly income of the deceased for personal expenses, the monthly income of the deceased comes to Rs.4725/- (6300 - 1575 = 4725) and annual income comes to Rs.56,700/-. If the multiplier No.16 is applied with the annual income, the total loss of income comes to Rs.9,07,200/- (56,700 x 16 = 9,07,200). So far as the other heads awarded by the Tribunal are concerned, the same are not disputed by both sides and hence, they are confirmed.

7. In view of the above, the award is enhanced from 6,92,000/- to Rs.9,51,200/-. So far as the interest is concerned, the rate of interest i.e., 7.5% p.a. fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire award amount, less the amount already deposited, with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the appellants / claimants are permitted to withdraw the deposited amount with accrued interests and costs, as apportioned by the Tribunal, without filing any formal petition before the Tribunal. The appellants are directed to pay the Court fee, if any to be



paid, for the enhanced amount, within a period of four weeks from the date of receipt of a copy of this judgment.

8. This Civil Miscellaneous Appeal is accordingly allowed. No costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The III-Additional District Judge (PCR),
The Motor Accident Claims Tribunal,
Madurai.

2. The Record Keeper,
V.R. Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Srinivasa Raghavan, Advocate SR.No.69253

+1cc to Mr.K.Kumaravel, Advocate SR.No.69065

Gcg

MK/KKR/SAR 1/10.07.2018/3P/6C

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