



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.391 of 2018

WEB COPY

1. Edward Raj
2. Gnanaselvam

.. Appellants/Petitioners

Vs.

1. Antony Kumar

2. The Branch Manager,
Shri Ram General Insurance Company Ltd.,
Office at E-8, RIICO Industrial Area,
Sitapura Jaipur,
Rajasthan- 302 022.

.. Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.04.2015, made in MCOP No.1233 of 2013 on the file of the learned II-Additional District Judge, Motor Accident Claims Tribunal, Tirunelveli.

For Appellant	: Mr.T.Selvakumaran
For Respondent No.1	: Tapal Returned
For Respondent No.2	: Mr.D.Sivaraman

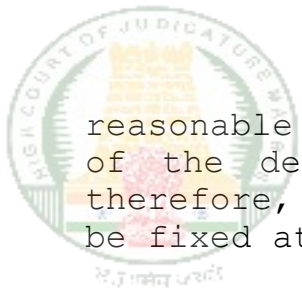
JUDGMENT

This civil miscellaneous appeal has been filed against the judgment and decree passed by the learned II-Additional District Judge, Motor Accidents Claims Tribunal, Tirunelveli, in M.C.O.P.No.1233 of 2013, dated 16.04.2015.

2. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent and perused the records carefully.

3. It is a case of fatal and the appellants/claimants, being dissatisfied with the compensation of Rs.6,93,000/- awarded by the tribunal, are before this Court, seeking enhancement. According to the appellants, the deceased was aged about 18 years at the time of accident and was a cleaner in the lorry belonging to the first respondent, earning about Rs.9,000/- per month. Because of the accident in question, they had lost the sole bread winner of their family. However, the tribunal has awarded a meagre sum and therefore, they pray for enhancement for a sum of Rs.2,00,000/- .

4. While fixing the monthly income of the deceased as Rs.6,000/- per month, no compensation was awarded towards future prospects. The Supreme Court, in its latest verdict, in the case of National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017, has held that 40% towards future prospects is



reasonable for persons, who are below 40 years. Admittedly, the age of the deceased at the time of the accident was 18 years and therefore, by applying the above principle, future prospects is to be fixed at 40%.

5. Therefore, in the case on hand, if future prospects and other appropriate principles are followed, it is a simple math that overall compensation will be on the higher side, however, the appellants/claimants restricted their claim to a sum of Rs.2,00,000/- which in the opinion of this Court is very reasonable, and therefore, the same is accordingly ordered.

6. In such a view of the matter, the civil miscellaneous appeal is partly allowed and the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.8,93,000/- [Rs.6,93,000/- awarded by the tribunal + Rs.2,00,000/- enhanced by this Court]. The second respondent / insurance company is directed to deposit the sum of Rs.8,93,000/- [Rupees Eight Lakhs Ninety Three Thousand only] towards compensation, with interest at the rate of 7.5% p.a., and costs, excluding the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. In other respects, the award stands confirmed. On such deposit, the appellants are permitted to withdraw the entire award amount as apportioned by the tribunal, without filing any formal application before the Tribunal. There shall be no order as to costs. The appellant shall pay the necessary additional court fee, if any, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The II-Additional District Judge,
The Motor Accidents Claims Tribunal,
Tirunelveli.

Copy To:

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

+1CC to Mr.D.Sivaraman, Advocate, SR.No.70926

+1CC to Mr.T.Selvakumaran, Advocate, SR.No.71202

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