



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1485 of 2013

1.Jothilakshmi
2.Minor Dhanasekaran
3.Minor Sivasankaran .. Appellants/Petitioners
(Minor petitioners represented
through their mother and next
guardian 1st petitioner herein)

Vs.

1. Shaik Mohammed Ali

2. Reliance General Insurance Company Ltd.,
through its Branch Manager,
Room No.9, Hari Krupa Towers,
13/191-192 RF Road,
Anantapur,
Andhra Pradesh. .. Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.443 of 2010 on the file of Motor Accident Claims Tribunal (1st Additional District Judge), Tirunelveli dated 30.10.2012.

For Appellants	: Mr.T.Selvakumaran
For Respondent No.1	: No appearance
For Respondent No.2	: Mr.Sakthivel

JUDGMENT

This civil miscellaneous appeal has been filed against the judgment and decree passed by the learned 1st Additional District Judge, Motor Accidents Claims Tribunal, Tirunelveli, in M.C.O.P.No.443 of 2010 dated 30.10.2012.

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

3. It is a case of fatal and the claimants/dependents, being dissatisfied with the compensation of Rs.6,10,000/- awarded by the tribunal, are before this Court, seeking enhancement. According to the first appellant, her husband was aged about 39 years at the time



of accident and was running a Tea shop, earning about Rs.10,000/- per month and therefore, the tribunal should have awarded future prospects. However, the tribunal has not awarded compensation on that head and therefore, she prayed a sum of Rs.3,00,000/- towards future prospects.

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4. The learned counsel for the appellant would submit that in the absence of evidence for income, the learned Judge ought to have taken the monthly salary as Rs.6000/-, by complying the judgment reported in 2012(1) TANMAC 829.

5. Perusal of the records, this Court feels that Rs.4,500/- p.m., towards monthly salary is reasonable. It is seen that the deceased was 39 years at the time of accident and by applying the principle laid down by the Hon'ble Apex Court in National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017, the future prospects would be 40%. Since there are five dependents, the learned Judge ought to have deducted $\frac{1}{4}^{\text{th}}$ towards personal expenses instead of $\frac{1}{3}^{\text{rd}}$. If the above said proper principles are applied, it is a simple math that the compensation would be on the higher side, however, the appellants/claimants came before this Court seeking enhancement of compensation of a sum of Rs.3,00,000/- only, which, in my considered opinion, is very reasonable.

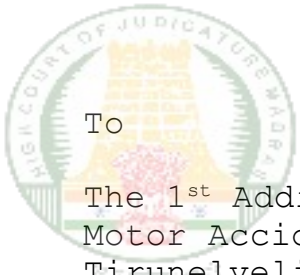
6. In such a view of the matter, this civil miscellaneous appeal is allowed and the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.9,10,000/- [Rs.6,10,000/- awarded by the tribunal + Rs.3,00,000/- enhanced by this Court]. The second respondent is directed to deposit the sum of Rs.9,10,000/- [Rupees Nine Lakhs Ten 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 first appellant is permitted to withdraw her share with accrued interests and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until they attain majority. The first appellant herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. There shall be no order as to costs. The appellants shall pay the necessary additional court fee, if any.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The 1st Additional District Judge,
Motor Accidents Claims Tribunal,
Tirunelveli.

+1CC to Mr.T.Selvakumaran Advocate in SR.No.70046.

+1CC to Mr.V.Sakthivel Advocate in SR.No.69856.

PJL

DS/SB/SAR-2 :10.07.2018: 3P/4C

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