

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1347 of 2005

1. Niraiselvi
2. Minor S.Gopinath
3. Minor S.Koteeswari
4. Minor S.Gunasekaran

(Minor Appellants 2 to 4 represented by mother and guardian/first appellant) : Appellants/Petitioners

vs.

1. A.N.Ramachandran
2. M/s.Bharath Heavy Electricals Ltd.,
B.A.P. Ranipet,
by its General Manager
Ranipet.
3. M/s.United India Insurance Co. Ltd.,
by its Divisional Manager
Katpadi Road Vellore.
4. Viswanathan
- 5.Yasodammal : Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 30.01.2004 made in M.C.O.P.No.197 of 2001 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Vellore.

For appellants : M/s.T.Dhanyakumar
For respondent-1 : M/s.K.V.Krishnan
For respondent-2 : M/s.B.T.Seshadri
For respondent-3 : M/s.M.Srividya
For respondents-4 & 5 : M/s.Harini for
M/s.Vijayaraghavan

JUDGMENT

This Appeal has been filed by the claimants as against judgment and decree dated 30.01.2004 passed by the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Vellore, in M.C.O.P.No.197 of 2001.

2.The appellants/claimants/wife and children of one A.V.Srinivasan, who died in a motor vehicle accident that took place on 12.01.2001, while riding his motorcycle bearing Regn.No.TCU 1341, on account of the rash and negligent driving of the driver of the Tempo Traveller bearing Regn.No.TN23 S 3467 belonging to the second respondent and insured with the third respondent insurance company, filed a claim petition, claiming a compensation of Rs.15,00,000/-.

3.The Tribunal, on perusal of the materials and evidence available on record, came to the conclusion that the driver of tempo traveller bearing Registration No.TN-23-S-3467 was responsible for the accident and accordingly, fastened the liability on the third respondent insurance company and ultimately, quantified the total compensation at Rs.2,80,000/- with interest at 9% p.a. from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so determined by the Tribunal, the claimants have preferred this appeal seeking enhancement of the same.

4.The learned counsel for the appellants submitted that without considering the fact that the appellants have lost their breadwinner and they have no independent source of income to maintain themselves, in a proper perspective, the Tribunal has erred in awarding lesser sum towards conventional damages (loss of consortium, loss of love and affection, funeral expenses etc.); the deceased was earning Rs.10,000/- per month, by doing Cable TV business and real estate, besides holding a post in State Panchayat Councillor's Association and without taking note of the same, the Tribunal has erred in fixing a meagre sum of Rs.2,000/- as monthly income of the deceased; and hence, the compensation awarded by the Tribunal has to be enhanced substantially.

5.Per contra, the learned counsel appearing for the respondents submitted that the Tribunal, after examining all the materials and evidence adduced by the parties, has awarded the just compensation and hence, the same warrants no interference at the hands of this Court.

6.Heard all the parties and perused the materials available on record.

7.This is the claimants' appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, there is no requirement for this Court to go into the finding of the Tribunal on negligence and the liability of the respondents 1 to 3 to pay compensation to the appellants/claimants jointly and severally.

8.The appellants claimed that the deceased was doing Cable TV business and real estate and also a member of Panchayat Councillor's Association and was earning Rs.10,000/- per month. To substantiate the same, they produced Ex.P7-Registration certificate for cable TV net service and Ex.P8 -certificate for State Panchayat Councillor's Association. However, the Tribunal has taken only a sum of Rs.2,000/- as monthly income of the deceased, which appears to be on the lower side. Considering the facts and circumstances of the case and having regard to the materials and evidence adduced by the appellants/claimants, this Court feels it just and proper to fix a sum of Rs.3,250/- as monthly income of the deceased. Consequently, the compensation awarded by the Tribunal under the head "loss of income" is recalculated as under:

Rs.3,250/- x 12 x 15 = Rs.5,85,000/-
Accordingly, the compensation awarded by the Tribunal under this head is enhanced to Rs.5,85,000/-.

9.Similarly, the Tribunal has awarded a lesser sum towards conventional damages. having regard to the number of dependents i.e., 6 (wife, three children and parents) and taking note of the fact that the appellants/claimants have lost their only breadwinner and they have no source of income to maintain themselves, this Court is inclined to enhance the compensation awarded by the Tribunal under the heads "loss of consortium", "loss of love and affection" and "funeral expenses" to some extent, besides awarding a sum towards damage to articles and other belongings at the time of accident. Thus, the break-up details of the enhanced compensation by this Court, read as follows:

Sl. No.	Head	Amount awarded by the Tribunal (Rs.)	Amount enhanced by this Court (Rs.)
1	Loss of income	2,56,000/-	5,85,000/-
2	Loss of consortium	10,000/-	40,000/-
3	Loss of love and affection	11,000/-	50,000/-
4	Funeral expenses	3,000/-	15,000/-
5	Damages to clothes, articles and motorcycle		10,000/-
	Total	2,80,000/-	7,00,000/-

However, it is made clear that the enhanced sum of Rs.4,20,000/- shall carry interest only at 7.5%pa from the date of filing of this appeal.

10.In fine, this appeal is partly allowed. The award of the Tribunal is enhanced from Rs.2,80,000/- to Rs.7,00,000/-. The first appellant/wife of the deceased is entitled to Rs.3,25,000/- and the appellants 2 to 4/children and the respondents 4 and 5/parents of the deceased are entitled to Rs.75,000/- each. No costs. The third respondent insurance company is directed to deposit the entire compensation amount as awarded by this Court along with interest and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this Judgment. It is reported on the side of the appellants/claimants that the appellants 2 to 4 have attained majority as of now. In view of the same, on making proper applications by the appellants, the Tribunal shall transfer the award amount to the respective bank accounts of the appellants and respondents 4 and 5 through RTGS.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

mra/rk

To

1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Vellore.
2. The Section Officer, V.R. Section,
Madras High Court, Chennai 104.

+1cc to Mr.T.Dhanyakumar, Advocate, SR.No.50845.

AK(CO)
CSR: 03.03.2020

C.M.A.No.1347 of 2005