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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.652 of 2005

1. Bhuvaneswari
2. Jayaraman

... Appellants/ Petitioners

Vs

1. Palaniswami
2. The United India Insurance Company Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai, Chennai - 2.
3. A.Arumuga Pandi
4. The Oriental Insurance Company Ltd.,
Motor III Party Claims Office,
No.8, Esplanade, Chennai - 108.

(R1 & R3 were set exparte before the Tribunal)

... Respondents/ Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.10.2003 made in MCOP No.20 of 1987 on the file of the Motor Accident Claims Tribunal, Sub Judge, Poonamallee.

For Appellants	: Mr.J.Mahalingam
For R2	: Mr.D.Bhaskaran
For R4	: Mrs.R.Sreevidhya

JUDGMENT

According to the appellants/claimants, they are the parents of one Ravichandran, who died in a motor vehicle accident that had occurred on 14.10.1986. While the deceased was travelling as a coolie in a van bearing Registration No.TCW-4570 belonging to the third respondent and insured with the fourth respondent insurance company and the vehicle was plying on Madras-Bangalore road, near Chembarambakkam, a lorry bearing Registration No.KRP-1800 belonging to the first respondent and insured with the second respondent, came from the opposite direction in a rash



and negligent manner and dashed against the Van. Due to the said impact, the deceased succumbed to the injuries. Stating so, the appellants being the parents of the deceased, filed a claim petition seeking compensation of Rs.3,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has come to the conclusion that the accident had occurred due to the rash and negligent driving of the drivers of both the van and the lorry and accordingly fixed the liability on the insurers of both the vehicles at 50% each and awarded a total compensation of Rs.1,64,400/- with interest at the rate of 9% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so awarded, the appellants have preferred this appeal seeking enhancement of the same.

2.The learned counsel for the appellants /claimants has submitted that though the deceased was earning Rs.70/- per day, the Tribunal has fixed a lesser sum of Rs.35/- per day towards income of the deceased, while awarding compensation under the head "loss of income"; the amounts awarded towards other heads are very low; and hence, the same has to be enhanced substantially.

3.Per contra, the learned counsel for the second and fourth respondents/ insurance companies submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the materials available on record.

5.This is a claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal with respect of negligence as well as the liability of the second and fourth respondents insurance companies to pay compensation.

6.The mother of the deceased was examined as P.W.1, who deposed in her evidence that the deceased was aged about 16 years and was earning Rs.70/- per day as a Coolie. However, no proof was produced to substantiate the same. Hence, the Tribunal has taken Rs.35/- per day for 25 days ie., Rs.875/- which, in the opinion of this Court, is on the lower side and the same is hereby enhanced to Rs.1,800/- per month. After deducting 1/3rd towards personal expenses and applying the multiplier of 16, the compensation under the head "loss of income" works out to Rs.2,30,400/- (1200 x 12 x 16). Thus, the award of Rs.1,12,000/- by the Tribunal towards loss of income to the family of the deceased is hereby enhanced to Rs.2,30,400/-.



7. That apart, the Tribunal has awarded a sum of Rs.50,000/- towards loss of love and affection and filial consortium to the appellants. Considering the fact that the appellants have lost their 16 year old son in an unfortunate accident, due to which, they deprived of his company, care, help, comfort, guidance, solace and affection, this Court is inclined to enhance the same to Rs.60,000/- and the same is accordingly, enhanced. Similarly, the award of Rs.2,400/- by the Tribunal towards transportation and funeral expenses is hereby enhanced to Rs.9,600/-, having regard to the facts and circumstances of the case. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,64,400/- to Rs.3,00,000/-, the breakup details of which, read as follows:

Head	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Loss of Income [1200x12x16]	1,12,000/-	2,30,400/-
loss of love and affection and filial consortium	50,000/-	60,000/-
Funeral Expenses and Transportation	2,400/-	9,600/-
Total	1,64,400/-	3,00,000/-

However, it is made clear that the enhanced sum of Rs.1,35,600/- (Rs.3,00,000/- (-) Rs.1,64,400/-) shall carry interest only at 7.5% pa from the date of filing of this appeal.

8. In the result, this appeal is allowed to the extent as indicated above. No costs. The respondent insurance companies are directed to deposit their respective liability of 50% of the award amount as enhanced by this Court, 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. On such deposit being made, the appellants 1 and 2 are permitted to withdraw their shares as per the ratio of apportionment made by the Tribunal, on making proper application. It is needless to state that the appellants shall pay the necessary court fee for the enhancement compensation, if not, already paid.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar



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To

1.The Motor Accidents Claims Tribunal,
Sub Court, Poonamallee.

2.The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.J.Mahalingam , Advocate SR.No. 96524

+2ccs to Mr.D.Bhaskaran , Advocate SR.No. 98668 95764

+1cc to M/s.R.Sree Vidhya , Advocate SR.No. 99393

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mp

A.SK(15/07/2020)