



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
06.03.2019	12.06.2019

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CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1157 of 2011

1. Vasanthi
W/o. Kannan
2. Minor Uma,
D/o. Kannan
3. Minor Vivek,
S/o. Kannan
4. Minor Varun
S/o. Kannan

.... Appellants/Petitioners

(Appellants 2 to 4 are represented by their mother &
Natural Guardian 1st Appellant)

Vs.

1. Panchatcharam, (Deceased)
2. Krishnaveni ..Respondents 1 & 2/Petitioners 5 & 6
3. Chitra
4. Divisional Manager,
The New India Assurance Company Limited,
Divisional Office,
Tiruvannamalai.Respondents 3 & 4/Respondents 1 & 2

(Appellants 1 to 4 and 2nd respondent
are recorded as Legal representative of the
deceased 1st Respondent vide order of the
Court dated 06.04.2011 in C.M.A.SR.62293/2010
(memo filed on 06.04.2011)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the Judgment and Decree in
M.C.O.P.No.673 of 2008 dated 26.02.2010 on the file of the Motor
Accidents Claims Tribunal, District Court, Tiruvannamalai.



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For Appellant : Mr.B. Jawahar
For Respondents 2 & 3 : No appearance
For Respondent-4 : Mr. S. Monohar

J U D G M E N T

This Civil Miscellaneous Appeal arises out of the Judgment and Decree dated 26.02.2010 made in M.C.O.P.No.673 of 2008 on the file of the Motor Accidents Claims Tribunal, Tiruvannamalai. (for brevity, "the Tribunal").

2. The appellants are herein the legal representatives of the deceased Kannan being Claimants/petitioners before the Tribunal. They have preferred the appeal seeking for enhancement of compensation awarded by the Tribunal.

3. The petition has been filed under Section 163A of M.V. Act. After perusing the oral and documentary evidence of P.W.1 and P.W.2 as well as Ex.P.1 to Ex.P7, the Tribunal has rightly come to the conclusion that the claimants/petitioners are entitled for compensation of Rs.3,07,200/- towards the loss of dependency, Rs.5000/- towards the loss of consortium and Rs.2000. In toto, compensation for a sum of Rs.3,14,200/- has been awarded to the claimants/petitioners.

4. After hearing both the parties, the factum of the accident and the manner of the accident has to be rash and negligence and entitlement of the claimant/petitioner under Section 163A is not in dispute. Quantum of the compensation awarded by the Tribunal is alone disputed.

5. Taking into consideration the fact and circumstance of the case that nature of the employment, per annum income of the deceased of Rs.40,000/- as per the Second Schedule of M.V. Act has been adopted according to Sarala Verma Case. Since there are six claimants in the case, 1/4 deduction has to be arrived. Accordingly, loss of income arrived at $40,000 - 10000 = 30,000 \times 16 = 4,80,000/-$. i.e. $40000 \times 1/4 \times 16 = 4,80,000/-$. loss of consortium of Rs.40,000/-, and Funeral expenses of Rs.15,000/-. In toto, the claimants/appellants herein are entitled to receive the compensation of Rs.5,35,000/-.

6. Thus, the compensation awarded by the Tribunal has been enhanced by Rs.2,20,800/- from Rs.3,14,200/- to Rs.5,35,000/-



with interest @ 7.5% per annum from the date of petition till the date of deposit and the Fourth respondent/Insurance Company is directed to deposit the award amount enhanced by this Court to the credit of M.C.O.P. No.673 of 2008 after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of copy of this order and on such deposit, the appellant/claimant is permitted to withdraw the same along with the interest.

7. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is modified. There shall be no order as to costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

lbm

To:

The District Judge, District Court
Motor Accidents Claims Tribunal, Tiruvannamalai.

+1 CC to Mr.S. Sounthar, Advocate sr 47425.

+1 CC to Mr.S. Manohar, Advocate sr 47629

C.M.A.No.1157 of 2011

GP(CO)

SP(15/11/2019)