

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.114 of 2015

1.K.Amudhavalli

2.K.Lokesh (Minor)

3. K.Rubanshiver (Minor)
(Minors 2 and 3 are represented by
their Mother and natural guardian
1st Appellant herein) ..Petitioners

4.Shanmugam (Father of the deceased) ...3rd Respondent

5.Indirani (Mother of the deceased) ...4th Respondents

Vs.

1. K.Gopalarathinam
(Notice may be dispensed with)

2. The New India Assurance Company,
Motor Accident IIIrd Party Claims Office,
No.45, Moore Street, Vth Floor,
Chennai - 1. ... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.08.2013 in M.C.O.P.No.16 of 2007 passed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.M.Munian

For R2 : Mr.G.Udayasankar

For R1 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 23.08.2013 in M.C.O.P.No.16 of 2007 passed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2.The appellants 1 to 3 are claimants in M.C.O.P.No.16 of 2007 passed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai. The appellants 1 to 3 have filed the above claim petition, claiming a sum of Rs.2,00,000/- as compensation for the death of one S.Kiruba who died in the accident that took place on 16.03.2005.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the brick laden lorry belonging to the first respondent and directed the second respondent/Insurance Company to pay a sum of Rs.52,786 /- as compensation to the appellants.

4.Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal for enhancement of compensation.

5.The learned counsel for the appellants contended that the accident had occurred on 16.03.2005, the deceased suffered injuries in the heel of the left leg and inspite of prolonged treatment for more than four months i.e., from 16.03.2005 to 20.08.2005 and which injury caused serious infection and also bread warm therein, due to intolerable pain and suffering, the deceased had committed suicide. The deceased was an auto driver and was earning a sum of Rs.6,000/- per month. The Tribunal erroneously fixed the monthly income of the deceased at Rs.3,000/- per month and total compensation awarded by the Tribunal is meager. The learned counsel appearing for the appellants would contend that even in respect of the nature of injuries sustained by the deceased, a minimum compensation ought to have been awarded by the Tribunal without taking into consideration of loss of life and a sum of Rs.15,000/- (Rs.3,000/-X5) towards loss of income, Rs.12,000/- towards transportation, Rs.25,000/- towards pain and suffering and Rs.786/- towards medical bills based on Ex.P5/medical bills awarded by Tribunal are meagre. In support of his contention, the learned counsel relied upon a decision in "Krishnaveni and others versus B.Muruganathan and others" reported in (2000) 1 LW 222 wherein, this Court in similar circumstances, awarded a minimum compensation of Rs.1,50,000/-.

6.The learned counsel for the second respondent contended that the deceased has committed suicide. The appellants have not proved that the deceased was an auto driver and was earning a sum of Rs.6,000/- per month. In the absence of any material evidence, the Tribunal has rightly fixed the notional income of the deceased at Rs.3,000/- per month and granted just compensation. The amount awarded by the Tribunal is not meager and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellants as well as the learned counsel for the second respondent and perused all the materials available on record.

8. From the materials available on record, it is seen that due to the injuries suffered in the accident, the deceased sustained grievous injuries in the heel of the left leg and suffered intolerable pain and did not resume his work as an auto driver and that due to intolerable pain, the deceased had committed suicide and this was only due to the accident. The ratio in the said judgment cited supra is applicable to the facts of the present case. Accordingly, this Court is inclined to award a sum of Rs.1,50,000/- as consolidated compensation. Therefore, the appellants are entitled to the compensation of Rs.1,50,000/- including the compensation of Rs.52,786/- awarded by the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.52,786/- is hereby enhanced to Rs.1,50,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the enhanced award amount along with interest and cost, less the amount if any, already withdrawn. The share of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalized Bank, till they attain majority. On such deposit, the first appellant, being the mother of the minor appellants 2 and 3 is permitted to withdraw the accrued interest, once in three months for the welfare of the minor appellants 2 and 3. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gbi

To

1.The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.

2.The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+1 CC to Mr.M.Munian, Advocate sr 104344
+1 CC to Mr.G.Udayasankar, Advocate sr 104281.

C.M.A.No.114 of 2015

SPD(CO)
SP(12/08/2020)



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