



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.711 of 2009

1. B. Fathima
2. B.Iqbal
3. B.Rafiq
4. B.Rahiq
5. B.Imtiyaz
6. B.Banu (Minor)
7. M.Askari Begam ... Appellant/Petitioners

Versus

1. R. Mohan Raman
2. Bajaj Allianz General Insurance Co Ltd.,
"Prince Towers" 5th Floor;
No.25/26, College Road,
Nungambakkam,
Chennai - 600 006. ... Respondents/Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated, the 6th day of June, 2008 in M.C.O.P.No.5822 of 2003 on the file of the Motor Accidents Claims Tribunal (IV Judge, Court of Small causes) at Chennai.

For Appellants	:Ms.Ramya V. Rao
For Respondent 2	:Mr.N. Vijayaraghavan

J U D G M E N T

This appeal has been filed against the fair and decreetal order dated, 06.06.2008 in M.C.O.P.No.5822 of 2003 on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small causes, Chennai.



2. On 09.09.2003 at about 01:00 p.m, the deceased Baba was riding his motor cycle bearing Reg.No.TN-20-U-2885 in Peters road Junction at Royapettah High Road, Chennai -14. At that time the second respondent herein came in his motor cycle bearing Registration No.TN-22-S-0924 at a very high speed and dashed against the deceased. The accident occurred only due to the rash and negligent act of the second respondent. In the result the deceased Baba sustained fatal injuries and died on the spot itself. Therefore, the legal heirs of the deceased who are the appellants herein filed M.C.O.P.No.5822 of 2003 on the file of the Motor Accidents Claims Tribunal, IV of Small Causes, Chennai, seeking compensation for a sum of Rs.6,00,000/- The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.1,59,500/- payable with interest at the rate of 7.5% per annum.

3. Challenging the quantum of the award amount, the appellants have filed this appeal.

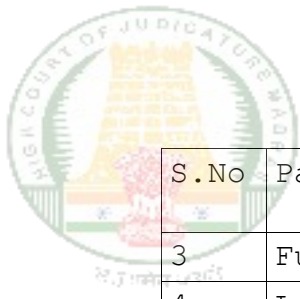
4. The learned counsel for the appellant contends that at the time of the accident the deceased was aged about 42 years and he was earning a sum of Rs.3,300/- per month. He further contends that the deceased is the sole bread winner of the family and seeks to enhance the award amount.

5. Heard both sides and perused the materials available on record.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has not awarded a just and fair compensation, which need interference by this Court in this appeal and the quantum of compensation assessed by the Tribunal, needs to be enhanced.

6. Thus, considering the facts and circumstances of the case, this Court finds that the amount awarded by the Tribunal needs to be enhanced. The loss of pecuniary awarded by the Tribunal is enhanced to Rs.3,96,000/- and the other heads namely Loss of Estate, Funeral Expenses and the loss of Consortium are confirmed. Hence, the award amount is enhanced to Rs.4,05,000/- from 1,59,500/- under the following heads.

S.No	Particulars	Amount granted by the Tribunal	Amount awarded by this Court
1	Loss of Pecuniary	Rs.1,50,000/-	Rs.3,96,000/-
2	Loss of Estate	Rs.2,500/-	Rs.2,500/-



S.No	Particulars	Amount granted by the Tribunal	Amount awarded by this Court
3	Funeral Expenses	Rs.2,000/-	Rs.2,000/-
4	Loss of Consortium	Rs.5,000/-	Rs.5,000/-
	Total	Rs.1,59,500/-	Rs.4,05,500

7. In the result,

(a) this appeal is partly allowed and the Judgment and Decree dated 06.06.2008, made in M.C.O.P.No.5822 of 2003, on the file of Motor Accidents Claims Tribunal, IV Judge, Court of Small causes at Chennai.

(b) the respondent/Insurance Company is directed to deposit the enhanced amount, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit the appellants (1 to 5 and 7) are directed to file proper application before the Tribunal and withdraw their respective share amount.

(d) The amount apportioned as compensation to the minor sixth appellant should be deposited in a Nationalised Bank till she attain majority, however, the mother of the minor/first appellant herein is permitted to withdraw accrued interest once in three months.

(e) There will be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To.

The Motor Accident Claims Tribunal,
IV Judge, Court of Small causes at Chennai.

+1cc to M/s.M.B.Gopalan Associates Sr.18433

+1cc to Mr.A.N.Viswanatha Rao, Advocate Sr.18051

C.M.A. No.711 of 2009

pa[co]
srg 24/09/2019