

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No. 1680 of 2015

1.Vasi Chinnaiah
2.Vasi Sreenivasalu
3.Vasi Venkata Ramanaiah .. Appellants/Petitioners

Vs.

1.Gadikoyila Vemaiah
2.Shri Ram General Insurance Co. Ltd.,
No.66, Thirumalai Pillai Road,
T. Nagar, Chennai 17. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 27.11.2014, made in M.C.O.P.No.3707 of 2011, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr. J. Ramkumar

For Respondents: Mr. S. Dhakshnamoorthy (for R2)

R1 : No Appearance

J U D G M E N T

This appeal has been filed seeking enhancement of the compensation granted by the award dated 27.11.2014, made in M.C.O.P.No.3707 of 2011, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants-claimants filed M.C.O.P.No.3707 of 2011, on the file of the IV Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the death of one Vasi Chinnaamma who died in the accident that took place on 24.01.2011.

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 Auto belonging to the 1st respondent and directed the 2nd respondent to pay a sum of Rs.8,01,000/- as compensation to the appellants.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 27.11.2014, made in M.C.O.P.No.3707 of 2011, the appellants have come out with the present appeal.

5. Learned counsel appearing for the appellants contended that the deceased was running a Mess and earning a sum of Rs.15,000/- per month. The Tribunal erroneously fixed a meager sum of Rs.6,500/- as monthly income and applying multiplier '13', granted compensation towards loss of dependency. The same is very meager. The deceased was aged 48 years at the time of accident. The Tribunal has not awarded any amount towards future prospects. The amounts granted by the Tribunal under other heads are meagre and prayed for enhancement of the compensation.

6. Learned counsel appearing for the 2nd respondent-Insurance Company contended that in the absence of any oral or documentary evidence to prove the avocation and income of the deceased, the Tribunal rightly fixed a sum of Rs.6,500/- per month as notional income of the deceased and granted compensation towards loss of dependency, which is not meager. The amounts granted under different heads are not meager. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard learned counsel appearing for the appellants as well as the 2nd respondent and perused the materials available on record.

8. It is the contention of the appellants that the deceased was running a Mess and earning a sum of Rs.15,000/- per month. The 1st appellant in her evidence as P.W.1 has deposed that the mother of the deceased is running the Mess. The Tribunal considering the materials on record and evidence of P.W.1, fixed a sum of Rs.6,500/- per month as notional income of the deceased. The accident is of the year 2011. The notional income fixed by the Tribunal is meager. Considering the nature of work done by the deceased, a sum of Rs.7,000/- is fixed as the monthly income of the deceased. Considering the age mentioned in the death certificate and the post-mortem certificate marked as Exs.P4 and P5, the Tribunal fixed the age of the deceased as 50 years at the time of accident. The Tribunal has not awarded any enhancement towards future prospects. The appellants are entitled to 25% enhancement towards future prospects. There are 3 dependants of the deceased. Deducting 1/3rd towards personal expenses of the deceased and applying the multiplier '13', the

amount granted by the Tribunal towards loss of dependency is modified to Rs.9,10,000/- {[Rs.7,000/- + Rs.1,750/- (25% of Rs.7,000/-)] x 12 x 13 x 2/3}. The sum of Rs.50,000/- granted to the 1st appellant towards loss of consortium and a sum of Rs.25,000/- granted for funeral expenses are excessive and the same are reduced to Rs.40,000/- and Rs.15,000/- respectively. The sum of Rs.50,000/- granted by the Tribunal has not awarded any amount towards loss of estate. The appellants are entitled to a sum of Rs.15,000/- towards loss of estate. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	6,76,000/-	9,10,000/-	Enhanced
2.	Loss of consortium to the 1 st appellant	50,000/-	40,000/-	Reduced
3.	Loss of love and affection	50,000/-	50,000/-	Confirmed
4.	Funeral expenses	25,000/-	15,000/-	Reduced
5.	Transport charges	5,000/-	5,000/-	Confirmed
6.	Funeral expenses	15,000/-	15,000/-	Confirmed
7.	Loss of estate	-	15,000/-	Granted
	Total	8,01,000/-	10,50,000/-	Enhanced by Rs.2,49,000/-

10.In the result, the appeal is allowed and the amount awarded by the Tribunal at Rs.8,01,000/- is enhanced to Rs.10,50,000/- along with interest and costs. The 2nd respondent Insurance Company is directed to deposit the enhanced award

amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.3707 of 2011. On such deposit, the appellants are permitted to withdraw their share of the award amount, along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The appellants are directed to pay the court fee, if any, on the enhanced amount of Rs.2,49,000/-. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Gsa

To

- 1.The Judge,
IV Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No. 103538
+1cc to Mr.J.Ramkumar, Advocate, S.R.No. 103693

सत्यमेव जयते

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GMR (CO)
GN(17/08/2020)

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