

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.1928 OF 2015

J.Deivanai

P.Jayapal (died)

The word "died" was amended as per
the order passed in M.P.No.169 of 2014
dated 05.06.2014.

.. Appellant

Vs.

1. M.Rangaraj

2. United India Insurance Co. Ltd.,
70, N.S.C Bose Road, III Floor,
Sowcarpet, Chennai 79.

.. Respondents

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 09.07.2015, made in M.C.O.P.No.2794 of 2009, on the file of the Special Sub Court No.1 to deal with M.C.O.P Cases, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.K.Suryanarayanan
For R2 : Mr.C.Paranthaman

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant seeking enhancement of the compensation granted by the award dated 09.07.2015, made in M.C.O.P.No.2794 of 2009, on the file of the Special Sub Court No.1 to deal with M.C.O.P Cases, (Motor Accident Claims Tribunal), Chennai.

2.The appellant-claimant filed M.C.O.P.No.2794 of 2009, on the file of the Special Sub Court No.1 to deal with M.C.O.P Cases, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the death of one J.Senthilmurugan, who died in the accident that took place on 28.07.2009.

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 lorry belonging to the 1st respondent and directed the 2nd respondent to pay a sum of Rs.8,27,000/- as compensation to the appellant.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 09.07.2015, made in M.C.O.P.No.2794 of 2009, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant contended that the deceased was working as a delivery boy cum office assistant in M/s. Forward Technology Agency Pvt. Ltd., and was earning a sum of Rs.10,000/- per month. The Tribunal erroneously fixed a meagre sum of Rs.6,500/- as the notional income of the deceased. The deceased was aged 24 years at the time of accident. The Tribunal failed to grant future prospects, loss of estate and loss of expectation of life and other conventional damages. The amounts granted by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that in the absence of any evidence to prove the avocation and income of the deceased, the Tribunal has rightly fixed the sum of Rs.6,500/- as the monthly income of the deceased and granted compensation under the head loss of dependency. The same is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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

8.From the materials on record, it is seen that appellant contended that the deceased was working as an office assistant cum delivery boy in a private concern and was earning a sum of Rs.10,000/- per month. In the absence of any material evidence, the Tribunal has fixed a sum of Rs.6,500/- as the monthly income of the deceased, which is not meagre. The Tribunal failed to grant any amount towards future prospects. The deceased was aged 24 years at the time of accident. The appellant is entitled to 40% enhancement towards future prospects. Deducting 50% towards personal expenses of the deceased, the compensation granted towards loss of dependency is modified to Rs.9,82,800/- $\{ [Rs.6,500/- + Rs.2,600/- (40\% \text{ of } Rs.6,500/-)] \times 12 \times 18 \times \frac{1}{2} \}$. The Tribunal has awarded excessive amount towards funeral expenses. The same is reduced to Rs.15,000/-. The Tribunal failed to grant any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards loss of estate. The amount

granted by the Tribunal under the head, loss of love and affection is just and reasonable and the same is confirmed. 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 income	7,02,000/-	9,82,800/-	enhanced
2.	Loss of love and affection	1,00,000/-	1,00,000/-	Confirmed
3.	Funeral expenses	25,000/-	15,000/-	reduced
4.	Loss of estate	-	15,000/-	granted
	Total	8,27,000/-	11,12,800/-	Enhanced by Rs.2,85,800/-

9. In the result, the appeal is allowed and the compensation awarded by the Tribunal at Rs.8,27,000/- is enhanced to Rs.11,12,800/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount 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.2794 of 2009. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. The appellant is directed to pay the necessary Court fee, if any, for the enhanced award amount now determined by this Court. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Special Subordinate Judge No.1,
(Motor Accident Claims Tribunal),
Chennai.

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

+1cc to Mr.C.Paranthaman, Advocate, S.R.No.38058
+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No.38378

C.M.A.No.1928 of 2015

AD(CO)
CS/15/12/2020



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