

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2036 of 2015

1.Urmila Devi
2.Bhola Prasad
3.Amrita Priyadarshini
4.Preeti Priyadarshini
5.Anya Priyadarshini ... Appellants/Petitioner

Vs.

1.M.S.Kotaiah
2.The New India Assurance Company Limited,
Motor Claims III Party Cell,
No.45, Moore's Road,
Chennai - 600 001. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.03.2015 made in M.C.O.P.No.5820 of 2013 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellants : Mr.K.Suryanarayanan
for Mr.S.Ravikumar
For R2 : Mr.J.Chandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 16.03.2015 made in M.C.O.P.No.5820 of 2013 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.5820 of 2013 on the file of the Motor Accident Claims Tribunal, II Small

Causes Court, Chennai. They filed the above said claim petition, claiming a sum of Rs.50,00,000/- as compensation for the death of one Amit Kumar, who died in the accident that took place on 06.06.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the van belonging to the first respondent and directed the second respondent/Insurance Company, being the insurer of the van to pay a sum of Rs.24,00,000/- as compensation to the appellants/claimants.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that the deceased was aged 21 years and was awaiting for the result of final year B.Tech, (I.T.). The notional income of Rs.12,500/- per month fixed by the Tribunal is meagre. The deceased after completion of his studies, could have got decent job and contributed more amounts to the appellants. Hence, the Tribunal ought to have fixed monthly income of the deceased at Rs.20,000/-. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the accident took place in the year 2013 and the Tribunal in the absence of any proof, fixed a sum of Rs.12,500/- as notional income of the deceased, which is not meagre for a student who is aged 21 years at the time of accident. A sum of Rs.25,000/- awarded by the Tribunal towards funeral expenses is excessive. The Tribunal has awarded excessive amount of Rs.75,000/- each to the appellants 1 and 2 towards loss of love and affection and Rs.2,00,000/- towards loss of estate. The amounts awarded by the Tribunal under different heads are highly excessive and therefore, the appellants are not entitled to any enhancement and prayed for dismissal of the appeal.

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

8.From the materials available on record, it is seen that the appellants 1 and 2 are the parents and appellants 3 to 5 are sisters of the deceased. They have filed claim petition claiming compensation for the death of one Amit Kumar, who died in the

accident. They have produced Ex.P6/legal heirship certificate. The Tribunal considering Ex.P6, held that the appellants are the legal heirs of the deceased. The deceased was aged 21 years and was awaiting for the result of final year B.Tech, (I.T.) After completion of his studies, he could have got decent job with good salary and would have contributed to the maintenance of the family. The accident occurred in the year 2013 and the monthly income of the deceased fixed at Rs.12,500/- by the Tribunal is meagre and the same is hereby enhanced to Rs.17,000/-. The Tribunal granted 50% enhancement towards future prospects, which is excessive. The appellants are entitled to only 40% enhancement towards future prospects. Thus, the compensation awarded by the Tribunal towards loss of dependency is hereby enhanced to Rs.25,70,400/-{[Rs.17,000/- + Rs.6,800/- (40% of Rs.17,000/-)] X 12 X 18 X $\frac{1}{2}$ }. The Tribunal has granted a sum of Rs.75,000/- each to the appellants 1 and 2 towards loss of love and affection, which is excessive and the same is hereby reduced and the appellants 1 and 2 are entitled to only a sum of Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses, which is excessive and the same is hereby reduced to Rs.15,000/-. The Tribunal has granted excessive amount of Rs.2,00,000/- towards loss of estate and the same is reduced to Rs.15,000/-. 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	20,25,000/-	25,70,400/-	Enhanced
2.	Loss of love and affection	1,50,000/-	80,000/-	Reduced
3.	Funeral expenses	25,000/-	15,000/-	Reduced
4.	Loss of estate	2,00,000/-	15,000/-	Reduced
	Total	Rs.24,00,000/-	Rs.26,80,400/-	enhanced by Rs.2,80,400/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.24,00,000/- is hereby enhanced to Rs.26,80,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent 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 judgment to the credit of M.C.O.P.No.5820 of 2013 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai. On such deposit, the appellants are permitted to withdraw their respective share of the enhanced award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2.The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.J.Chandran Advocate sr102620
+1 cc to Mr.S.Ravikumar Advocate sr101965

C.M.A.No.2036 of 2015

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