

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.2098 and 2186 of 2015
and
M.P.Nos.1 & 1 of 2015

1.K.Krishnaveni

2.N.V.Komala

3.N.Revathi

4.N.Sreedevi

5.N.R.Sreeja (Minor)

.. Appellants in C.M.A.No.2098 of 2015/Claimant

(R5-minor represented by her Mother and
natural guardian N.Sreedevi, the fourth appellant herein)

1.N.Sreedevi

2.N.R.Sreeja (Minor)

3.N.Krishnaveni

.. Appellants in C.M.A.No.2186 of 2015/Claimant

(R2-minor represented by her Mother and
natural guardian N.Sreedevi, the first appellant herein)

सत्यमेव जयते
Vs.

1.K.Priyakannan

2.New India Assurance Co. Ltd.,
No.45, Moore Street, V Floor,
Parrys, Chennai-600 001.

... Respondents in both C.M.As/Respondent

(The 1st respondent herein remained exparte before
lower court, hence notice to him may be dispensed with)

Common Prayer: These Civil Miscellaneous Appeals are filed under
Section 173 of Motor Vehicles Act, 1988, against the common
Judgment and Decree dated 23.11.2011 made in M.C.O.P.Nos.2137

and 2138 of 2008 on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.IV, Chennai.

(in both C.M.As)

For Appellant : Mr.Pitti Parthasarathy

For R2 : Mr.R.Neethi Perumal

R1 : Exparte

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals are filed for enhancement of compensation of the award dated 23.11.2011 made in M.C.O.P.Nos.2137 and 2138 of 2008 on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.IV, Chennai.

2.The appellants are the respective claimants in M.C.O.P.Nos.2137 and 2138 of 2008 on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.IV, Chennai. They filed the above claim petitions claiming a sum of Rs.5,00,000/- and Rs.29,50,000/- respectively, as compensation for the death of N.Venkateswaralu and N.V.Rajendra Babu, who died in the accident that took place on 16.05.2007.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the Tanker lorry belonging to the first respondent and directed both the first respondent as well as the second respondent-Insurance Company to pay a sum of Rs.1,64,000/- and Rs.16,89,500/- as compensation jointly and severally to the appellants in C.M.A.Nos.2098 and 2186 of 2015 respectively.

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

5.The learned counsel appearing for the appellants contended that the deceased in C.M.A.No.2098 of 2015 was retired Superintendent, D.E.O. Kancheepuram, and was earning a sum of Rs.7,000/- per month. The Tribunal erred in fixing meager sum of Rs.3800/- per month as the notional income of the deceased. As far as the appellants in C.M.A.No.2186 of 2015 is concerned, the deceased was aged 40 years, working as Headmaster in Panchayat

Union Primary School, Soorapoondi, Gummidipoondi Taluk, Tiruvallur District, and was also taken private tuition and was earning a sum of Rs.14,646/- per month. The Tribunal erred in not awarding any amount towards future prospects. The amounts awarded by the Tribunal towards funeral expenses, loss of consortium, loss of estate in both the appeals are meager and prayed enhancement of compensation.

6.Per Contra, the learned counsel appearing for the second respondent/Insurance Company contended that the appellants in C.M.A.No.2098 of 2015 have not let in any evidence to prove that the deceased was earning a sum of Rs.7,000/- per month. The Tribunal considering the avocation of the deceased in both the claim petitions awarding compensation for loss of income and other heads, which are not meager and prayed for dismissal of both the appeals.

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

8.From the materials available on record, it is seen that the deceased in C.M.A.No.2098 of 2015 was a retired Superintendent, D.E.O. Office, Kancheepuram. The appellant claimed that the deceased was earning a sum of Rs.7,000/- per month. The appellant has not substantiated the same by any acceptable evidence. The accident took place on 16.05.2007. Considering the materials on record in entirety a sum of Rs.2,000/- is fixed in addition to Rs.3801/- received by the deceased as pension. Hence, the amount awarded by the Tribunal towards loss of income is modified to Rs.2,32,040/- [(Rs.3,801/- + Rs.2,000/-) x 12 x 5 x 2/3]. The amounts awarded by the Tribunal towards loss of consortium, funeral expenses and loss of estate are meager and the same are enhanced to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively. Thus, the compensation awarded by the Tribunal is modified as follows:
C.M.A.No.2098 of 2015 (M.C.O.P.No.2137 of 2008):

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	1,52,000/-	2,32,040/-	enhanced
2.	Loss of consortium	5,000/-	40,000/-	enhanced
3.	Funeral Expenses	2,000/-	15,000/-	enhanced
4.	Loss of Estate	5,000/-	15,000/-	enhanced

Total	1,64,000/-	3,02,040/-	enhanced by Rs.1,38,040/-
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As far as C.M.A.No.2186 of 2015 is concerned, the deceased was aged about 40 years at the time of the accident and was working as Headmaster in Panchayat Union Primary School, Soorapoondi, Gummidipoondi Taluk, Tiruvallur District, and also taken private tuitions. The Tribunal has not awarded any amount towards future prospects. The appellants are entitled to 30% enhancement towards future prospects. Hence, the amount awarded by the Tribunal towards loss of income is modified as Rs.22,84,776/- rounded off to Rs.22,84,800/- [Rs.14,646/- + (30% of Rs.14,646/-)] x 12 x 15 x 2/3]. The amounts awarded by the Tribunal towards loss of consortium, funeral expenses and loss of estate are meager and the same are enhanced to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively. Thus, the amount awarded by the Tribunal as compensation is modified as follows:

C.M.A.No.2186 of 2015 (M.C.O.P.No.2138 of 2008):

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	16,80,000/-	22,84,800/-	enhanced
2.	Loss of consortium	5,000/-	40,000/-	enhanced
3.	Funeral Expenses	2,000/-	15,000/-	enhanced
4.	Loss of Estate	2,500/-	15,000/-	enhanced
	Total	16,89,500/-	23,54,800/-	enhanced by Rs.6,65,300/-

10. In the result, both the Civil Miscellaneous Appeals are partly allowed and the compensation awarded by the Tribunal at Rs.1,64,000/- (in M.C.O.P.No.2137 of 2008) and Rs.16,89,500/- (in M.C.O.P.No.2138 of 2008) are hereby enhanced to Rs.3,02,040/- and Rs.23,54,800/- respectively with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The respondents 1 and 2 are directed to deposit the enhanced award amount now determined by this Court jointly and severally 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. On such deposit, the appellants 1 to 4 in C.M.A.No.2098 of 2015 and appellants 1 and 3 in C.M.A.No.2186 of 2015 are permitted to withdraw their respective share of the enhanced award amount, 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. The share amount of the minor fifth appellant in C.M.A.No.2098 of 2015 and second appellant in C.M.A.No.2186 of 2015 is directed be deposited in any one of the Nationalised Bank till the minor respondent attains majority. On such deposit, the fourth appellant in C.M.A.No.2098 of 2015 and first appellant in C.M.A.No.2186 of 2015, being the mother of the minor respondent is permitted to withdraw the accrued interest, once in three months for the welfare of the minor. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gbi/krk

To

1.The Additional District and Sessions Judge,
Fast Track Court No.IV,
Motor Accidents Claims Tribunal,
Chennai.

Copy TO

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

+1cc to Mr.Pitty Parthasarathy, Advocate, S.R.No.7516
+1cc to Mr.Pitty Parthasarathy, Advocate, S.R.No. 7517
+1cc to Mr.R.Neethiperumal, Advocate, S.R.No. 8463

C.M.A.Nos.2098 and 2186 of 2015
and M.P.Nos.1,1 of 2015

VGI (CO)
GN(25/07/2019)