

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3290 of 2011

1.Shankaramma

2.Arthi

... Appellants /Petitioners

Versus

1.M/s.Sundaram Plastics,
Harita Complex,
Belegondapalli Post,
Hosur Taluk,
Krishnagiri District.

2.The Branch Manager,
United India Insurance Co.Ltd.,
Branch Office,
23-A, No.2 Road,
Mayiladudurai,
Nagapattinam District.

... Respondents /Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 18.04.2011 made in M.C.O.P.No.636 of 2007 on the file of the Motor Vehicle Claims Tribunal (Principal District Judge), Krishnagiri.

For Appellants: Mr.Mukund R.Pandiyan
for Mr.M.Sriram

For R1 : No appearance

For R2 : Mr.C.Paranthaman

JUDGMENT

This Civil Miscellaneous Petition has been filed against the award and decree dated 18.04.2011 made in M.C.O.P.No.636 of 2007 on the file of the Motor Vehicle Claims Tribunal (Principal District Judge), Krishnagiri.

2.The mother and sister of the victim/Roopesh are the appellants herein, who had preferred M.C.O.P.No.636 of 2007 before the Motor Vehicle Claims Principal District Judge, Krishnagiri. They have filed the said claim petition for compensation of Rs.9,00,000/- from the respondents for the death of the said Roopesh, who died in the accident. It is stated that on 16.04.2005 at about 8.10 hours, one Suresh, the friend of the deceased was riding the Hero Honda Passion Bike, bearing Regn.No.TN-24-Z-2039 in Belegondapalli, Hosur Road towards, from the direction south to north and the deceased Roopesh was a pillion rider. While they were proceeding near Prince Auto Bynots Company in the above said Road, a Bus bearing Regn.No.TN-51-F-0777 came from the opposite direction in a rash and negligent manner and had dashed against the bike, due to that impact, the rider and the pillion rider fell down and sustained fatal injuries. They were immediately taken into the Government Hospital, Hosur from where they were referred to Bangalore Hospital. But, inspite of the treatment given by the Doctors, they died. In this connection, a case was registered by the police in Crime No.93 of 2005. At the time of accident, the deceased Roopesh was aged 17 years and studying +2. For the death of the said Roopesh, the appellants/claimants, who are mother and sister of the deceased respectively, claimed a sum of Rs.9,00,000/- as compensation.

3.After considering the pleadings and evidence adduced on either side, the Tribunal held that the accident had occurred only due to rash and negligent driving of the driver of the bus belonging to the first respondent and insured with the second respondent/Insurance company. Hence, the respondents 1 and 2 are jointly and severally liable to pay the compensation. So far as the quantum of compensation is concerned, the Tribunal, by taking the age of the deceased as 17 and by relying upon a Supreme Court Judgment reported in 2005 ACJ SCC 99 in the case of Manju Devi Vs. Musafir Paswan, it has awarded a sum of Rs.2,25,000/- for loss of dependency. Further, the Tribunal has awarded as um of Rs.75,000/- for future prospects and another sum of Rs.75,000/- for non-pecuniary loss. Thus, the Tribunal has passed an award for a total sum of Rs.3,75,000/- as compensation. Not being satisfied with the same, the appellants/claimants have filed the present appeal, seeking enhancement of the compensation.

4.Heard both sides and perused the materials on record.

5.The learned counsel for the appellants/claimants submitted that the compensation amount of Rs.2,25,000/- awarded by the Tribunal under the head of loss of dependency is on the lower side. Further, the learned counsel for the appellant/claimants relied upon a decision rendered by the

Supreme Court Judgment reported in (2014) 1 SCC 244 in the case of Kishan Gopal and Another Vs. Lala and others, wherein for the death of a 10 year old child, the insurance company was directed to pay a sum of Rs.5,00,000/- as compensation.

6.In view of the aforesaid Judgement, this Court feels that the compensation of Rs.2,25,000/- awarded by the Tribunal under the head of loss of dependency is on the lower side and the same needs appropriate enhancement. Therefore, a sum of Rs.5,00,000/- is hereby awarded for the loss of dependency. However, the amount of Rs.75,000/- each awarded by the Tribunal under the heads of further prospects and non-pecuniary loss appears to be on the higher side and the same is hereby reduced to Rs.50,000/- under the each above said heads. Accordingly, the total compensation amount of Rs.3,75,000/- awarded by the Tribunal is hereby is modified and the same is enhanced to Rs.6,00,000/-.

7.In the result, this Civil Miscellaneous Appeal is partly allowed and the second respondent/Insurance company is directed to deposit the amount as determined in this appeal, together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, after adjusting amount, if any, already deposited. On such deposit being made, the appellants/claimants are permitted to withdraw the entire amount in a equal share, with accrued interest. The appellants/claimants are directed to pay necessary Court fee, if any, for the enhanced amount. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

klt

To

1. The Motor Vehicle Claims Tribunal,
(Principal District Judge), Krishnagiri.

Copy to

The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.Mukund R.Pandiyan, Advocate Sr.10979
+2cc to Mr.Paranthaman, Advocate sr.10076

CMA No.3290 of 2011

nm1[co]
srg 23/05/2019



WEB COPY