

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1257 of 2019

1.Anbazhagan
2.Tamilselvi
3.Vimal

... Appellants/Petitioners

Vs.

1.Sasikumar
2.G.Vimala
3.The Branch Manager,
United India Insurance Company Limited,
No.99-100, South Car Street,
Chidambaram Town.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.08.2018 made in M.A.C.T.O.P.No.51 of 2017 on the file of the Motor Accident Claims Tribunal, District Court, Karaikal.

For Appellants : Ms.Gopika Nambiar for
Mr.T.Sai Krishnan

For R3 : Mr.D.Bhaskaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 10.08.2018 made in M.C.O.P.No.51 of 2017 on the file of Motor Accident Claims Tribunal, District Court, Karaikal.

2.The appellants are the claimants in M.C.O.P.No.51 of 2017 on the file of Motor Accident Claims Tribunal, District Court, Karaikal. They filed the above said claim petition, claiming a sum of Rs.22,00,000/- as compensation for the death of one Sathish, who died in the accident that took place on 21.11.2016.

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, the first

respondent herein, belonging to the second respondent and directed the third respondent-Insurance Company to pay a sum of Rs.14,30,800/- as compensation to the appellants.

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

5. Ms. Gopika Nambiar, representing Mr. T. Sai Krishnan, the learned counsel appearing for the appellants contended that the deceased was aged 24 years and has completed Diploma in Mechanical Engineering and was working in Ford Company, Chennai and was earning a sum of Rs.15,000/- per month. The Tribunal erroneously fixed meager sum of Rs.9,000/- as monthly income of the deceased. The amount awarded by the Tribunal towards loss of love and affection is meager. The Tribunal has not awarded any amount towards loss of estate and prayed for enhancement of compensation.

6. Per contra, Mr. D. Bhaskaran, learned counsel appearing for the third respondent-Insurance Company contended that the appellants have not filed any document to prove their contention that the deceased was working in Ford Company, Chennai and was earning a sum of Rs.15,000/- per month. In the absence of material evidence, the Tribunal correctly fixed a sum of Rs.9,000/- and granted 40% enhancement towards future prospects and total compensation awarded by the Tribunal is not meager. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. I have heard the learned counsel appearing for the appellants as well as the third respondent and perused entire materials on record.

8. From the materials on record it is seen that appellants have contended that deceased was working in Ford Company, Chennai and was earning a sum of Rs.15,000/- per month and they failed to prove their contention. In the absence of material evidence, the Tribunal fixed monthly income of the deceased at Rs.9,000/-. The accident occurred in the year 2016. The deceased was aged 24 years at the time of accident and the monthly income fixed by the Tribunal is meager. A sum of Rs.10,000/- is fixed as monthly income of the deceased. The compensation awarded by the Tribunal towards loss of income is modified to Rs.15,12,000/- [Rs.10,000/- + 40% of Rs.10,000/- X 12 X 18 x 1/2]. The Tribunal has awarded a sum of Rs.50,000/- towards loss of love and affection to the appellants 1 and 2 and the same is hereby enhanced to Rs.80,000/- at the rate of Rs.40,000/- each to the appellants 1 and 2. The Tribunal has not granted any amount towards loss of estate. Therefore, a sum of Rs.15,000/-

is granted by this Court, towards loss of estate. The amount awarded by the Tribunal under other heads are 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	13,60,800/-	15,12,000/-	enhanced
2.	Loss of love and affection	50,000/-	80,000/-	enhanced
3.	Funeral expenses	15,000/-	15,000/-	confirmed
4.	Transportation	5,000/-	5,000/-	confirmed
6.	Loss of estate	-	15,000/-	granted
	Total	Rs.14,30,800/-	Rs.16,27,000/-	enhanced by Rs.1,96,200/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,30,800/- is hereby enhanced to Rs.16,27,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The third respondent-Insurance Company 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. 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.

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Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The District Judge,
Motor Accident Claims Tribunal,
Karaikal.

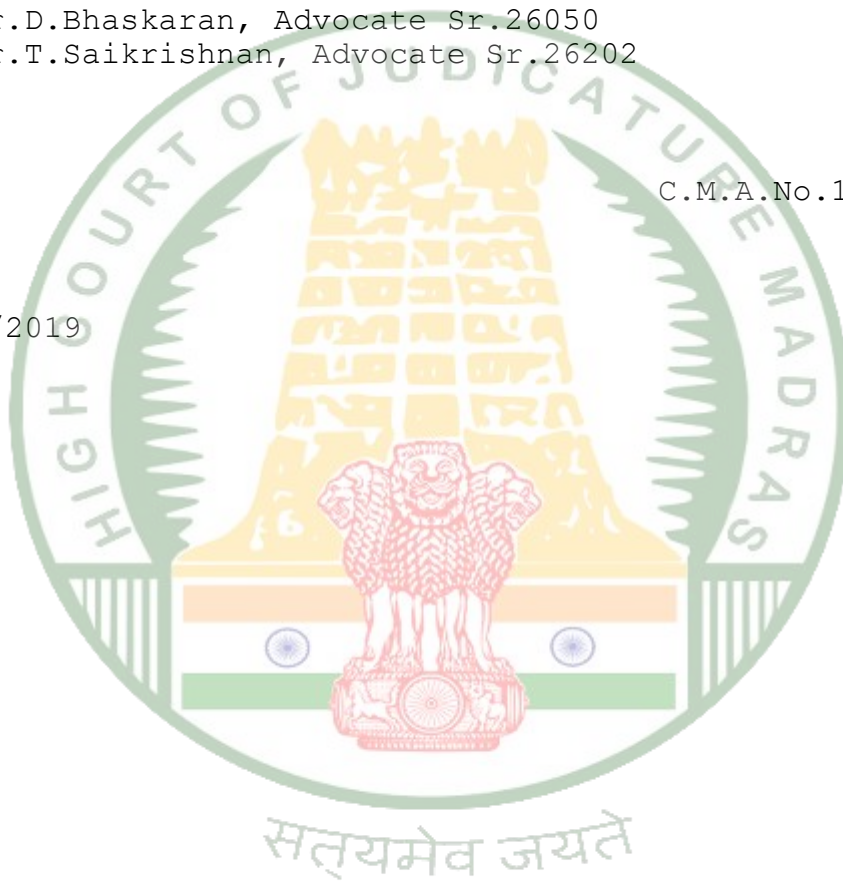
2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.D.Bhaskaran, Advocate Sr.26050

+1cc to Mr.T.Saikrishnan, Advocate Sr.26202

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