

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2665 of 2015

1.R.Jegathambal

2.R.Rajendran

.. Appellants/Petitioners

-Vs-

1.S.R.Annamalai

2.Royal Sundaram Alliance
Insurance Co. Ltd.,

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 03.06.2015 made in MCOP No.3335 of 2013 on the file of the Chief Judge, Small Causes Court, Motor Accident Claims Tribunal, Chennai, and enhance the award amount of Rs.20,00,000/-.

For Appellants : Mr.T.G.Ravichandran

For Respondents : Ms.C.Harini
for Mr.M.B.Gopalan for R2

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellants to set aside the Judgment and decree dated 03.06.2015 made in MCOP No.3335 of 2013 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai, and enhance the award amount to Rs.20,00,000/-.

2.The learned counsel for the appellant contended that the deceased was working as Maintenance Executive at M/s. Rohini International, T.Nagar, Chennai, and was earning a sum of Rs.15,000/- per month. The Tribunal erroneously fixed the monthly income of the deceased as Rs.10,000/- per month and failed to consider the promotional aspect and also failed to grant any amount towards future prospects. The amounts granted by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

3.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellants have failed to prove that the deceased was earning Rs.15,000/- per month and in the absence of any document, the Tribunal has rightly fixed the monthly income of the deceased as Rs.10,000/- per month, which is reasonable. Amounts awarded under different heads are not meager and prayed for dismissal of this Civil Miscellaneous Appeal.

4.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent and also perused the materials available on record.

5.The appellants claimed that the deceased was working as a Maintenance Executive at M/s. Rohini International, T.Nagar, Chennai, and was earning a sum of Rs.15,000/- per month. In support of this contention they examined P.W.3, Manager of M/s Hotel Rohini International. P.W.3 admitted that the attendance register, service register and pay registers have been maintained in the said hotel for the employees, but he did not produce any document to prove that the deceased was working in the said hotel at the time of accident. Further, the Ex.P.7, Salary certificate issued by the hotel does not contain any particulars of salary, instead, it simply mention the salary of the deceased was Rs.15,000/- per month. In view of the same, the Tribunal did not accept the Ex.P.7, Salary certificate.

6. Considering the age and avocation, the Tribunal fixed a sum of Rs.12,000/- as notional income of the deceased. The deceased was aged 21 years at the time of accident and the Tribunal has not awarded any amount for future prospects. Therefore, this Court is granting 40% enhancement towards future prospects. Thus the amounts awarded by the Tribunal is modified as follows:-

Rs.12,000/- + 4800 (40% of 12,000) x 12 x 18 x $\frac{1}{2}$ =Rs.18,14,400/-

A sum of Rs.25,000/- granted by the Tribunal for funeral expenses is reduced to Rs.15,000/-. The Tribunal has not awarded any amount for loss of estate and a sum of Rs.15,000/- is granted under this head. Amounts under the heads of love and affection and transportation are reasonable and hence they 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
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1.	Loss of dependency	10,80,000/-	18,14,400/-	enhanced
2.	Transport	5,000/-	5,000/-	confirmed
7.	Loss of estate	---	15,000/-	granted
8.	Funeral expenses	25,000/-	15,000/-	reduced
9.	Loss of love and affection	1,00,000	1,00,000/-	confirmed
	Total	12,10,000/-	19,49,400	Enhanced by Rs.7,39,400/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,10,000/- is hereby enhanced to Rs.19,49,400/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount 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 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 filing necessary applications before the Tribunal. No costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to Mr.T.G.Ravichandran, Advocate, SR.No.5776

+1cc to M/s.M.B.Gopalan Associates, Advocate, SR.No.6672

C.M.A.No.2665 of 2015

Kak (27/05/2019)



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