

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.341 of 2015

1.Madhu @ Madhuammal

2.Minor Manikandan
(Rep. by his mother and next
friend Madhu @ Madhuammal)

3.Nallathambi

4.Mayilammal

.. Appellants

Vs.

1.Blue Star Enterprises,
No.2/1-49-D, Salem Main Road,
Kunchandiyur, Mettur Taluk,
Salem District.

2.M/s.National Insurance Co. Ltd.,
Mettur, Salem District.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.01.2003 made in M.C.O.P.No.1229 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.2, Salem.

For Appellants : Mr.P.Krishnan

For R2 : Mr.J.Chandran

R1 : Exparte

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J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 31.01.2003 made in M.C.O.P.No.1229 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.2, Salem.

2.The appellants are claimants in M.C.O.P.No.1229 of 2001 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.2, Salem. They filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the death of one Raja, who died in the accident that took place on 11.06.2001. 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 Jeep belonging to the 1st respondent and directed both the 1st respondent as well as 2nd respondent/Insurance Company to pay a sum of Rs.2,55,072/- as compensation to the appellants 1 to 4, jointly and severally. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellants contended that the Tribunal disbelieved the evidence of PW3 and the Tribunal ought to have fixed the monthly income of the deceased at Rs.3,000/- and the contribution at Rs.2,000/- as per the judgment of Appellate Court. The Tribunal has not awarded any sum towards loss of income, loss of consortium, loss of love & affection and loss of companion ship and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering both oral and documentary evidence in proper perspective, has awarded compensation which is not excessive and prayed for dismissal of the appeal.

5.Heard Mr.P.Krishnan, learned counsel appearing for the appellants as well as Mr.J.Chandran, learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

6.From the materials available on record, it is seen that the appellants have contended that the deceased was working in a power loom silk weaving and he was earning a sum of Rs.8,000/- per month. The appellants have not filed any documents to substantiate the same. In the absence of any material evidence, the Tribunal has taken a sum of Rs.1,500/- per month as notional income of the deceased. The accident is of the year 2001, it would be proper to enhance the notional income taken by the

Tribunal and hence this Court taken a sum of Rs.3,500/- per month as notional income of the deceased. The deceased was aged 27 years at the time of the accident, the multiplier '18' applied by the Tribunal is not correct and the correct multiplier is '17'. Accordingly, the amount granted by the Tribunal towards loss of dependency is modified to Rs.4,08,000/- (Rs.3,000/- x 12 x 17 x 2/3). The Tribunal has not awarded any sum towards loss of consortium and loss of estate and this Court grants a sum of Rs.40,000/- and Rs.15,000/- respectively under those heads. A sum of Rs.3,000/- awarded by the Tribunal towards funeral expenses is meagre and the same is enhanced to Rs.15,000/- towards funeral expenses. 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)
1.	Loss of dependency	Rs.2,52,072/-	Rs.4,08,000/-
2.	Loss of consortium	-	Rs.40,000/-
3.	Loss of estate	-	Rs.15,000/-
4.	Funeral expenses	Rs.3,000/-	Rs.15,000/-
	Total	Rs.2,55,072/-	Rs.4,78,000/-

7.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,55,072/- is enhanced to Rs.4,78,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No costs.

8.The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. Both the 1st respondent as well as the 2nd respondent/Insurance Company are 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 1, 3 & 4 are permitted to withdraw their respective share from the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minor 2nd appellant is directed to be deposited

in any one of the Nationalised Bank till he attains majority.
The 1st appellant being the mother of the 2nd appellant is
permitted to withdraw the accrued interest once in three months
for the welfare of the minor.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mtl

To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.2,
Salem.

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

+lcc to Mr.J.Chandran, Advocate SR.No.78869

C.M.A.No.341 of 2015

GMV (10/01/2020)



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