

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.357 of 2015

1.Kousalya

2.A.Jayachandran

.. Appellants/Petitioner

Vs.

1.C.Dhanalakshmi

2.M/s.The Oriental Insurance Company Limited,

Divisional office, Oriental House,

No.216/15, Prakasam Salai, 1st Floor,

Chennai - 600 108.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.08.2014 made in M.C.O.P.No.277 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.T.G.Ravichandran

For R1 : No such person

For R2 : Mr.M.B.Raghavan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 28.08.2014 made in M.C.O.P.No.277 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.277 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai. They filed the above said claim petition, claiming a sum of Rs.21,80,000/- as compensation for the death of their son viz., J.Prakash, who died in the accident that took place on 28.10.2012.

3.The Tribunal considering the pleadings, oral and

documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the van belonging to the first respondent and directed the respondents 1 and 2 jointly and severally to pay a sum of Rs.11,40,000/- as compensation to the appellants/claimants.

4. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal.

5. The learned counsel appearing for the appellants contended that appellants are dependents of the deceased. The father of the deceased is a sick patient and always suffers from Spinal canal Stenosis. Due to above illness, he is unable to do any work. In such circumstances, the Tribunal erroneously deducted $\frac{1}{2}$ towards personal expenses as against $\frac{1}{3}$ rd. The deceased was 18 years old and was a final year Diploma student of V.Ramakrishna Polytechnic, Chennai and after completion of his studies, he could have got decent job and contributed huge amounts to the appellants. The Tribunal erroneously fixed monthly income of the deceased at Rs.10,000/- and awarded very meager compensation towards loss of dependency. The learned counsel for the appellants further contended that the Tribunal has not awarded any amount towards future prospects and loss of estate and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the accident took place in the year 2012 and the Tribunal without there being any proof regarding income of the deceased, fixed a sum of Rs.10,000/- as monthly income of the deceased, who is a 18 years old student, which is not meager. The amounts awarded by the Tribunal under different heads are not meager and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellants as well as the second respondent and perused the entire materials on record.

8. From the materials available on record, it is seen that the appellants as parents of the deceased have filed claim petition claiming compensation for the death of their son viz., J.Prakash, who died in the accident. They have produced Ex.P5/legal heirship certificate. The Tribunal considering Ex.P5, held that the appellants are dependents of the deceased. The deceased was aged 18 years and a final year Diploma student of V.Ramakrishna Polytechnic, Chennai. After completion of his studies, he could have got decent job with good salary and would have contributed to the maintenance of the family. In such circumstances, a sum of Rs.10,000/- fixed by the Tribunal as

monthly income of the deceased is meager. The accident occurred in the year 2012 and the monthly income of the deceased is hereby enhanced to Rs.11,000/-. The deceased was aged 18 years at the time of accident and the Tribunal has not granted any amount towards future prospects. The appellants are entitled to 40% enhancement towards future prospects. The deceased was a bachelor at the time of accident. Hence, the Tribunal has rightly deducted ½ towards personal expenses of the deceased and the same is proper. Thus, the compensation towards loss of dependency is hereby enhanced to Rs.16,63,200/- [Rs.15,400/- (Rs.11,000/- + 40% of Rs.11,000/-) X 12 X 18 X ½]. The Tribunal has granted a sum of Rs.10,000/- each to the appellants towards loss of love and affection, which is meagre and the same is hereby modified as the appellants are entitled to a sum of Rs.40,000/- towards loss of love affection. The Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses, which is excessive and the same is hereby reduced to Rs.15,000/-. The Tribunal has not granted any amount towards loss of estate and a sum of Rs.15,000/- is granted by this Court towards loss of estate. The compensation awarded by the Tribunal towards loss of expectation of life and transportation are reasonable and they are hereby 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 dependency	10,80,000/-	16,63,200/-	Enhanced
2.	Loss of love and affection	20,000/-	40,000/-	Enhanced
3.	Funeral expenses	25,000/-	15,000/-	Reduced
4.	Loss of expectation of life	10,000/-	10,000/-	Confirmed
5.	Transportation	5,000/-	5,000/-	Confirmed
6.	Loss of estate	-	15,000/-	Granted
	Total	Rs.11,40,000/-	Rs.17,48,200/-	enhanced by Rs.6,08,200/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,40,000/- is hereby enhanced to Rs.17,48,200/- together with interest at the rate of 7.5% per annum from the date of

petition till the date of deposit. The respondents 1 and 2 are jointly and severally 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 proportionate interest and costs, less the amount if any, already withdrawn, by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

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

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

+1cc to Mr.T.G.Ravichandran, Advocate SR.101053

+1cc to Mr.N.Vijayaraghavan, Advocate SR.100806

C.M.A.No.357 of 2015

PVS (CO)
CB(14/09/2020)

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