

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.934 of 2015

1.R.A.Selvam @ Arokkaswamy

2.A.Kuzthaitarasu

.. Appellants/Claimants

Vs.

1. R.Jayaraman

(R1 set exparte before the Tribunal)

2. Cholamandalam MS General Insurance Co.Ltd.

(Regional Office) Rashmi Tower, 2nd Floor,

No.1, Village Road, Nungambakkam,

Chennai 600 034.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.01.2015 made in M.A.C.T.O.P.No.4940 of 2013 on the file of the Motor Accidents Claims Tribunal, II Judge, Court of Small Cause, Chennai.

For Appellant : Mr.M.Swamikkannu

For R2 : Mr.N.Vijayaraghavan

J U D G M E N T

Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present Civil Miscellaneous Appeal, seeking enhancement of the same.

2.The case in brief is as follows:

On the fateful day, ie. on 05.05.2013, at about 2.20pm, the deceased Stephen Raj was travelling as a pillion rider in the motorcycle bearing registration No.TN-20-CW-5739 from Thada to Chennai. When the vehicle reached near Sekar Mango Garden, Varadaiahpalem, a Tata Ace bearing Registration No.TN-05-AM-7848 belonging to the first respondent and insured with the second respondent, came from the opposite direction in a rash and negligent manner and dashed against the motorcycle. As a result

of the same, the said Stephen Raj received crush injuries and died on the spot. The appellants/parents of the deceased, filed a claim petition seeking compensation of Rs.37,50,000/- On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.15,21,000/- with interest at the rate of 7.5% per annum from the date of petition. Hence, the appellants have preferred the present appeal.

3.The learned counsel for the appellants/claimants submitted that the Tribunal has erred in awarding a lesser compensation of Rs.15,21,000/- as against the claim of Rs.37,50,000/- and the same has to be enhanced substantially.

4.Per contra, the learned counsel for the second respondent insurance company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.This is the claimants' appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court would like to deal with the aspect of quantum alone.

7.With regard to the quantum of compensation, P.W.1/mother of the deceased, has in her evidence, deposed that the deceased was aged about 21 years and was earning a sum of Rs.10,000/- per month as Lab Assistant. However, no proof was produced to substantiate the same. In the absence of any evidence, the Tribunal has fixed the monthly income of the deceased as Rs.8,000/- and after making addition of 50% towards future income, determined the income of the deceased at Rs.12,000/- [Rs.8,000 + 4,000] and deducted half of the income towards personal expenses and adopted the multiplier of '18' and ultimately, quantified the compensation under the head 'loss of income' at Rs.12,96,000/-[Rs.6000x12x18]. The Tribunal has correctly analyzed the income of the deceased, adopted the correct multiplier and arrived at the said sum towards the contribution of the deceased to the family and hence, the same need not be interfered with by this Court. Further, the Tribunal has awarded Rs.25,000/- towards funeral expenses and Rs.1,00,000/- each towards loss of love and affection to the parents, which are just and reasonable and hence, the same are hereby confirmed. However, there is no modification with regard to the rate of interest at 7.5% p.a. awarded by the Tribunal.

8.In the result, this Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. No costs. The second respondent is directed to deposit the entire compensation amount as awarded by the Tribunal 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 being made, the Tribunal shall transfer the same to the respective bank accounts of the appellants as per the apportionment made by the Tribunal, through RTGS within a period of one week thereafter.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The II Judge, Court of Small Cause,
Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.M.Swamikkannu , Advocate SR.No.93464

+1cc to Mr.N.Vijayaraghavan , Advocate SR.No.93480

C.M.A.No.934 of 2015

A.SK(16/07/2020)

सत्यमेव जयते

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