



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1362 of 2019

1.Jayalakshmi

2.Anandhi

3.Punithavalli

4.Iyyappan

5.Prakash

.. Appellants

Vs.

1.Somasundaram

2.The Branch Manager,
United India Insurance Co. Ltd.,
P.B.No: 172, 261, J.N.Street,
Puducherry.

.. Respondents

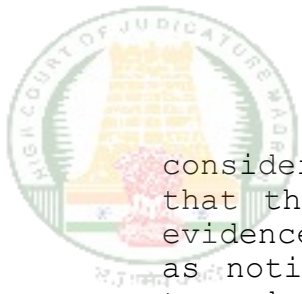
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.07.2017 made in M.C.O.P.No.236 of 2014 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Puducherry.

For Appellants : Ms.T.Anusuya

For R2 : Mr.J.Chandran

J U D G M E N T

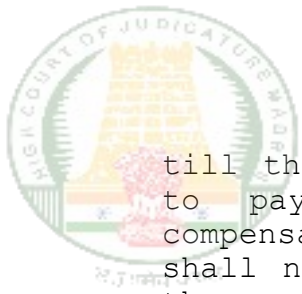
The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 04.07.2017 made in M.C.O.P.No.236 of 2014 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Puducherry.



considering the evidence of P.W.3 held that P.W.3 has not stated that the deceased was paid Rs.700/- per day. In the absence of evidence, the Tribunal has fixed a sum of Rs.6,000/- per month as notional income of the deceased and awarded 30% enhancement towards future prospects. The accident is of the year 2014. The notional income fixed by the Tribunal is meagre. This Court fixes a sum of Rs.8,000/- per month as notional income of the deceased. Further 30% enhancement awarded by the Tribunal towards future prospects is on the higher side. This Court awards 25% enhancement towards future prospects as the deceased was aged 50 years at the time of accident as per the post-mortem certificate. The loss of dependency awarded by the Tribunal is modified to Rs.11,70,000/- (Rs.8,000/- + 2000 (Rs.8,000/- X 25%) X 12 X 13 X 3/4). A sum of Rs.25,000/- awarded by the Tribunal towards loss of consortium is meagre and the same is enhanced to Rs.40,000/-. Appellants are not entitled to the sum of Rs.1,00,000/- awarded by the Tribunal towards loss of love and affection and the same is hereby set aside. A sum of Rs.25,000/- awarded by the Tribunal towards funeral expenses is on the higher side and the same is reduced to Rs.15,000/-. No amount is granted by the Tribunal towards loss of estate. This Court awards a sum of Rs.15,000/- towards loss of estate. 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	9,12,600	11,70,000	Enhanced
2.	Loss of consortium	25,000	40,000	Enhanced
3.	Loss of love & affection to the appellants 2 to 5	1,00,000	-	Set aside
4.	Funeral expenses	25,000	15,000	Reduced
5.	Loss of estate	-	15,000	Granted
	Total	Rs.10,62,600 /-	Rs.12,40,000 /-	Enhanced by Rs.1,77,400/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,62,600/- is hereby enhanced to Rs.12,40,000/- along with interest at the rate of 7.5% per annum from the date of petition



till the date of deposit. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellants/claimants shall not be entitled for any interest for the delay period on the amount enhanced by this Court. The 1st appellant being wife of the deceased is entitled to a sum of Rs.5,40,000/- and the appellants 2 to 5 being daughters and sons of the deceased are entitled to a sum of Rs.1,75,000/- each as compensation. The 2nd respondent/Insurance Company is directed to deposit entire 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/claimants are permitted to withdraw their respective share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

kj

To

The III Additional District Judge (FAC),
Motor Accidents Claims Tribunal,
Puducherry.

+1cc to Mr.R.Sreedhar, Advocate SR.No.18168

+1cc to Mr.J.Chandran, Advocate SR.No.18360

C.M.A.No.1362 of 2019

RR(CO)
GMY(10/10/2019)