

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1050 of 2018

G.Vinodkumar

.. Appellant

Vs.

1. S.Nareshkumar

2. Iffco-Tokio General Ins. Co. Ltd.,
28 (Old No.195) North Usman Road,
T.Nagar, Chennai 600 017. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 11.04.2011, made in M.C.O.P.No.1141 of 2008, on the file of the V Judge, Fast Track Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.T.G.Balachandran

For R2 : Mr.J.Michael Visuvasam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant seeking enhancement of the compensation granted by the award dated 11.04.2011, made in M.C.O.P.No.1141 of 2008, on the file of the V Judge, Fast Track Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellant/claimant filed M.C.O.P.No.1141 of 2008, on the file of the V Judge, Fast Track Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.6,00,000/- as compensation for the death of one G.Vidyasagar who died in the accident that took place on 25.12.2007.

3.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 van belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,20,000/- as compensation to the appellant.

4. Not being satisfied with the amounts granted by the Tribunal in the award dated 11.04.2011, made in M.C.O.P.No.1141 of 2008, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the deceased was working as a site supervisor in Aswa Technology and was earning a sum of Rs.7,500/- per month. The Tribunal erred in fixing a meagre sum of Rs.3,000/- per month as the notional income of the deceased. The deceased was aged 23 years at the time of accident. The Tribunal erred in applying multiplier '5' when the correct multiplier is '17'. The Tribunal failed to grant any enhancement towards future prospects of the deceased. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the same.

6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellant will have an independent family after his marriage and will not maintain the married brother and he is not entitled for any enhancement of compensation. The appellant has not proved the avocation and income of the deceased. The notional income fixed by the Tribunal is not meagre and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8. From the materials on record, it is seen that the appellant has contended that the deceased was working as a site supervisor and was earning a sum of Rs.7,500/- per month. The Tribunal erroneously fixed a meagre sum of Rs.3,000/- per month as the notional income of the deceased. The accident is of the year 2007. The notional income of the deceased is fixed at Rs.6,500/- per month. The deceased was aged 23 years at the time of accident. The multiplier applied by the Tribunal is not correct. The correct multiplier applicable is '18'. The Tribunal failed to grant any enhancement towards future prospects. Hence, granting 40% enhancement towards the future prospects of the deceased and deducting $\frac{1}{2}$ towards the personal expenses of the deceased as the deceased was a bachelor at the time of accident, the compensation granted by the Tribunal towards pecuniary loss is modified to Rs.9,82,800/- {[Rs.6,500/- + Rs.2,600/- (40% of Rs.6,500/-)] x 12 x 18 x $\frac{1}{2}$ }. The amounts granted by the Tribunal towards loss of love and affection and funeral expenses are meagre. The appellant is entitled to a sum of Rs.40,000/- towards loss of love and affection and a sum of Rs.15,000/- towards funeral expenses. The Tribunal failed to grant any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards the said head. The amount granted by the

Tribunal towards medical expenses is just and reasonable and hence, the same is 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.	Pecuniary loss	90,000/-	9,82,800/-	Enhanced
2.	Medical expenses	20,000/-	20,000/-	Confirmed
3.	Funeral expenses	5,000/-	15,000/-	Enhanced
4.	Loss of love and affection	5,000/-	40,000/-	Enhanced
5.	Loss of estate	-	15,000/-	Granted
	Total	1,20,000/-	10,72,800/-	Enhanced by Rs.9,52,800/-

9. In the result, the appeal is allowed and compensation granted by the Tribunal at Rs.1,20,000/- is enhanced to Rs.10,72,800/- along with interest and costs. The 2nd respondent is directed to deposit the enhanced award amount 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, to the credit of M.C.O.P.No.1141 of 2008. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount already withdrawn if any, by filing necessary applications before the Tribunal. No costs. The appellant is directed to pay the necessary Court fee, if any for the amount now enhanced by this Court.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The V Judge,
Fast Track Court,
(Motor Accident Claims Tribunal),
Chennai.

copy to: The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.T.G.Balachandran, Advocate, S.R.No.42292

+1 cc to M/s.J.Michael Visuvasam, Advocate, S.R.No.42247

C.M.A.No.1050 of 2018

GP(CO)
SSM(15/10/2019).



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