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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.872 of 2015

- 1.Ammasai
- 2.Mani
- 3.Shanthi

...Appellants/Petitioners

Vs

1. M/s.V.R.Textiles,
Nallur, Pungai Puliyampatty,
Sathyamangalam Taluk,
Erode District.
2. The New India Assurance Company Limited,
1st Floor, No.56/160-D,
Kovai Main Road,
Annur.

...Respondents/Respondents

(No relief sought against the 1st respondent,
hence notice may be dispensed with for the
1st respondent in this appeal)

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 07.09.2012 made in MCOP No.174 of 2011 on the file of the III Additional District & Sessions Judge, Motor Accidents Claims Tribunal, Gobichettipalayam.

For Appellants : Mr.MA.P.Thangavel

For R2 : Ms.S.R.Sumathy

JUDGMENT

This appeal has been preferred by the appellants/claimants against the award of a sum of Rs.2,99,000/- towards compensation to the appellants due to the death of the son of the appellants 1 and 2 in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 03.10.2011, at about 18.00 hours, the deceased Arumugam was riding his TVS XL Super motorcycle



bearing Reg.No.TN-38-AD-1737 on the Annur-Coimbatore Main Road, near Kadathur Pirivu Krithiga Kalyana Mandapam. At that time, the car bearing Reg.No.TN-36-V-4343, came from behind the at high speed in a rash and negligent manner and hit against the TVS XL Super motorcycle which the deceased was riding. Due to impact, the deceased sustained fatal injuries on his head, right leg, shoulder and injuries all over the body. The deceased was taken to the CMC Hospital Coimbatore and he succumbed to the injuries on 04.10.2011. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.20,00,000/- as total compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,99,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellants-claimants have filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4.The learned counsel for the appellants/claimants has submitted that the deceased was working as a Mason and earning a sum of Rs.9000/- per month, but the Tribunal has fixed only a sum of Rs.3,000/- as monthly income. He further submitted that even as per the dictum of the Hon'ble Apex Court in Sri Ramachandrappa's case reported in 2011(2) TN MAC 190 (SC), the notional income was fixed at Rs.4500/- per month, in the year 1994 itself and therefore, the compensation towards loss of income has to be enhanced. He also submitted that the amounts awarded towards other heads are very low and the same also requires enhancement.

5.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence and has correctly awarded the compensation which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellants / claimants and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

7.Considering the materials and evidence available on record, the Tribunal has awarded a sum of Rs.2,88,000/- towards loss of income. The said sum has been arrived at by taking the



monthly income of the deceased at Rs.3,000/-, deducting 50% of the amount towards personal expenses of the deceased and adopting the multiplier of 16. Considering the fact that the deceased was aged 30 at the time of accident, this Court is of the view that some amount has to be added towards future prospects while fixing the monthly income of the deceased. In such view of the matter, it would be appropriate to fix his monthly income at Rs.6,000/- and also to add 40% of the said sum towards his future prospects. If that is done, the total monthly income works out to Rs.8,400/- (Rs.6,000/- + Rs.2,400/- (40% future prospects)) and the contribution of the deceased to his family works out to Rs.8,06,400/- after deducting 50% towards his personal and living expenses as per the dictum of the Hon'ble Apex Court in Sarla Verma's case, since the deceased was a bachelor. Thus, the loss of income awarded by the Tribunal stands modified to Rs.8,06,400/-. The amounts awarded by the Tribunal at Rs.5,000/- towards funeral expenses and Rs.6,000/- towards loss of love and affection for the claimants 1 and 2 are very reasonable and hence the same are confirmed. The details of the modified compensation are as follows:-

HEADS	AMOUNT (Rs.)
Loss of income	8,06,400/-
Loss of love and affection	6,000/-
Funeral expenses	5,000/-

TOTAL...	8,17,400/-

Thus, the appellants / claimants are entitled to the modified compensation of Rs.8,17,400/-. It is made clear that only for the compensation of Rs.2,99,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.5,18,400/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. It is also made clear that the appellants / claimants have to pay the Court fee for the enhanced amount, ie., Rs.5,18,400/-, before receiving the copy of this judgment.

8.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.



9. The second respondent Insurance Company is directed to deposit the modified amount of compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The shares of the claimants shall be as per the same proportion apportioned by the Tribunal. On such deposit being made by the Insurance Company, the appellants / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gbi/km

To

1. The Motor Accidents Claims Tribunal,
The III Additional District & Sessions Judge,
Gobichettipalayam.

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

+1CC to M/s.Ma.P.Thangavel, Advocate, Sr.No.86538

+1CC to Mrs.S.R.Sumathy, Advocate, Sr.No.86034

C.M.A.No.872 of 2015

BP (CO)
GMY (18/08/2021)