

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2029 of 2019

1.Pushparaj
2.Ammu

..Appellants/Petitioners

Vs.

1.The Executive Officer, CAT Board/STM,
Cantonment Vehicle Carriage,
St. Thomas Mount, Chennai 600 016.

2.The Oriental Insurance Co. Ltd.,
Motor Third Party Hub,
No.115, Broadway, Chennai 108.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 24.10.2018, made in M.C.O.P.No.4618 of 2015, on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr.R.Nalliyappan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants-claimants, seeking enhancement of the compensation granted by the award dated 24.10.2018, made in M.C.O.P.No.4618 of 2015, on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants-claimants filed M.C.O.P.No.4618 of 2015, on the file of the Chief Judge, Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.33,00,000/- as compensation for the death of one Vijayakumar, who died in the accident that took place on 10.04.2015.

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 lorry belonging to the 1st respondent and directed the respondents to pay a sum of Rs.10,00,000/- jointly and severally as compensation to the appellants.

4. Not being satisfied with the amounts granted by the Tribunal in the award dated 24.10.2018, made in M.C.O.P.No.4618 of 2015, the appellants have come out with the present appeal.

5. The learned counsel appearing for the appellants contended that the deceased was a minor aged 15 years studying 10th standard and was working as a collection agent in a bike parking as part time and was earning a sum of Rs.7,000/- per month. The Tribunal erred in fixing a meagre amount of Rs.60,000/- per annum as the notional income and granting compensation of Rs.10,00,000/- against the claim of Rs.33,00,000/-. The Tribunal has not awarded any amounts for future prospects. The amounts granted by the Tribunal for loss of estate, funeral expenses, loss of love and affection are meagre and prayed for enhancement of the compensation.

6. Heard the learned counsel appearing for the appellants and perused the materials on record.

7. From the materials on record, it is seen that the deceased was a minor aged 15 years and was studying 10th standard. In the claim petition, the appellants have stated the income of the minor as 'nil' and the minor was a 10th standard student. No evidence was let in before the Tribunal to show that the deceased was doing part time work in a bike stand and was earning a sum of Rs.7,000/- per month. As per II Schedule of the Motor Vehicles Act, for a minor aged up to 15 years, the annual income is to be fixed at Rs.15,000/-. The Hon'ble Apex Court and this Court taking into consideration the increase in cost of living, has fixed the annual income in many cases between Rs.30,000/- and Rs.45,000/-. The Tribunal considering the judgment reported in 2017 (2) TN MAC 805 [National Insurance Co. Ltd., Vs. K.Sugumar and others], has fixed the annual income of the minor at Rs.60,000/-. The said amount is not meagre. The Tribunal has applied correct multiplier '15' as per II Schedule of the Motor Vehicles Act and has awarded a sum of Rs.9,00,000/- for loss of income and a sum of Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and a sum of Rs.70,000/- for loss of love and affection. There is no error in the said award warranting interference by this Court.

8. In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.10,00,000/- awarded by the Tribunal as compensation to the appellants/claimants, along with interest and costs is confirmed. The 2nd respondent-Insurance Company is directed to deposit the 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.4618 of 2015. On such deposit, the appellants/claimants are permitted to withdraw their share of the enhanced award amount along with interest and costs, as per the ratio of apportionment fixed by the Tribunal, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

Copy to : The Section Officer, V.R Section,
High Court, Madras.

+1 cc to M/s.R.Nalliyappan, Advocate Sr.No. 28975

AKM/11.11.19/3P-4C /

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