

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2789 of 2019

Raja gounder(died)

1. Chellammal
2. Thangamani
3. Rajammal
4. Sengottuvel
5. Chinnathambi

... Appellant/Plaintiff

Vs

1.Mohan

2.Reliance General Insurance Co., Ltd.,
Sri Lakshmi Complex, 1st Floor,
Bharathi Street, Omalur Main Road,
Swarnapuri, Salem. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.10.2018 made in M.C.O.P.No.20 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Court, Tiruchengode.

सत्यमेव जयते
For Appellant : Mr.T.S.Arthanareeswaran
For Respondent-2 : Mrs.Bhuvanasundari

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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 08.10.2018 made in M.C.O.P.No.20 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Court, Tiruchengode.

2.The brief facts of the case is as follows:

On 18.04.2012 at about 03:30 p.m while the deceased was proceeding near Mallasamudram, Police Divisional Near Chinnathambi Palayam, bus stop, right side, in his two wheeler bearing Registration No.TN-28-Y-2667 a lorry bearing registration No.KA 01 AE 2929 came in a rash and negligent manner and dashed against the back side of the deceased vehicle. In the impact the deceased sustained grievous injuries and fracture on his right leg, head and injuries all over the body and immediately he was taken to Tirukumran Hospital Tiruchengode and thereafter shifted to KMCH Hospital, Erode and admitted as in patient from 18.04.2012 to 06.06.2012. Even after discharged from hospital he was taking treatment in KMCH Hospital, Erode. Inspite of better treatment he died on 17.05.2014. Hence, the legal heirs of the deceased filed the claim petition before the claims Tribunal.

3. The Tribunal observed the contentions raised by both sides by way of evidence and documents and has given a finding that the accident occurred only due to the rash and negligent driving and awarded a sum of Rs.3,48,676/- as compensation under various heads.

4. In the grounds of appeal, the appellants have contended that due to the accident deceased Raj Gounder sustained multiple grievous injuries and fractures (Head injury, femur fracture in right leg, multiple Ribs fracture - Right Chest) and he was taken treatment from 18.04.2012 to 24.04.2012 (7 days) as an inpatient, thereafter he shifted to Kovai Medical Center Hospital at Erode, for further treatment, from 24.04.2012 to 25.05.2012 (35 days). During the treatment period he underwent surgeries by fixing plate and screws. This accident has caused physical pain and mental agony to the deceased and hence he was not able to recover and do his usual work. It is further contended the Tribunal has awarded the sum under the heads loss of income, loss of estate and funeral expenses.

5. Heard Mr.T.S.R.Thanareeswaran, learned counsel appearing for the appellants as well as Mr.Bhuvanasundari, learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

6. The learned counsel for the appellants contended that the deceased prior to the accident was doing some agricultural work and was earning Rs.10,000/- per month. As they lost the only bread winner, the family members are in a very indigent

circumstances and would further contend that the compensation awarded by the Tribunal would not suffice for a dead person. Hence, prays to allow this appeal and enhance the compensation amount.

7. On the other hand, the learned counsel for the respondent contended that there is no document to prove the income of the deceased and the Tribunal after analysing the relevant documents adduced before it passed a reasonable amount, which does not require any interference by this Court and prayed for dismissal of the appeal.

8. On perusal of the records, it is observed that the deceased sustained injuries as stated in the Exs.P.4,5,6 and 7. It is observed that he has sustained multiple grievous injuries and fractures (Head injury, femur fracture in right leg, multiple Ribs fracture - right Chest). The deceased has taken treatment as in-patient at Thirukumaran Hospital, at Tiruchengode from 18.04.2012 to 24.04.2023 for seven days. Due to the injuries sustained by the deceased, he could not continue his work as he was doing earlier. Though, the appellants have vehemently argued for the enhancement of compensation, this Court by considering the nature of injuries and the expenses incurred for the fractures, is of the view that the assessment made by the Tribunal towards medical expenses as of Rs.3,38,676/- and Rs.10,000/- towards Transportation are reasonable and proper. It is seen from the award that the Tribunal has not awarded any sum towards attendant charges. In view of the fact that they has taken treatment for a long time and also considering the age of the deceased and the nature of injuries sustained by him, a sum of Rs.20,000/- is awarded towards attendant charges. 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)
1.	Medical expenses	Rs.3,38,676/-	Rs.3,38,676/-
2.	Transport expenses	Rs.10,000/-	Rs.10,000/-
3.	Attender charges	-Nil-	Rs.20,000/-
	Total	Rs.3,48,676/-	Rs.3,68,676/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,68,676/- is hereby enhanced to Rs.3,68,676/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No Costs.

10. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, as per the apportionment ordered by the Tribunal, 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 the enhanced award amount along with interest and costs, as per the apportionment ordered by the Tribunal, less the amount if any, already withdrawn.

Sd/-

Assistant Registrar (Arb.)

// True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.C.Paraneedharan, Advocate, SR.No.65442.

NMI (CO)
CSR: 19.02.2020

C.M.A.No.2789 of 2019

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