



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.657 of 2018

1.A.Rada
2.A.Gopalakrishnan
3.A.Ramesh Kumar
4.Kalaichelvi
Alamelu (died) .. Appellants/Petitioner

Vs.

1.M/s.Associated Road Carriers Ltd.,
No.16, Whites Road, 4th floor,
Post Box No.5554, Royapettah,
Chennai - 600 014.
2. M/s.National Insurance Co. Ltd.,
The Branch Officer,
Nehru Street, Pondicherry. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.02.2006 made in M.C.O.P.No.51 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Villupuram.

For Appellants : Mr.Pa.Sudesh Kumar

For Second Respondent : Mr.P.Sankaranarayanan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 27.02.2006 made in M.C.O.P.No.51 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Villupuram.

2.The appellants are the claimants in M.C.O.P.No.51 of 2002 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Villupuram. They filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the death of one Alwar, who died in the accident that took place on 18.07.2001.



3. Pending claim petition, the fifth appellant died. 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 first respondent and directed the respondents jointly or severally to pay a sum of Rs.7,94,000/- as compensation to the appellants 1 to 4.

4. Not being satisfied with the amount granted by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants contended that the deceased was working as head constable at the time of accident and was earning a sum of Rs.7,646/- per month. The Tribunal has not granted any enhancement towards future prospects. The amount awarded by the Tribunal under different heads are meager and prayed for enhancement of compensation.

6. Per contra, Mr. P. Sankaranarayanan, learned counsel appearing for the second respondent-Insurance Company contended that the Tribunal after fixing the monthly income, instead of deducting 1/4th (i.e., Rs.1912/-) deducted only a sum of Rs.1,600/- and fixed monthly income at Rs.6,000/- and granted compensation by applying multiplier '11'. In view of the same, the appellants are not entitled for any enhancement towards future prospects. The amount awarded by the Tribunal under different heads are just compensation and the appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. I have heard the learned counsel appearing for the appellants as well as the second respondent and perused the entire materials on record.

8. From the materials on record it is seen that appellants have contended that the deceased was working as head constable and was earning a sum of Rs.7,646/- per month. The deceased was 51 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. As per the judgment of the Hon'ble Apex Court reported in 2017 ACJ 2700/2017(2)TNMAC 609 (SC) [National Ins. Co. v. Pranay Sethi], the appellants are entitled to 15% enhancement towards future prospects. The amount awarded by the Tribunal towards loss of dependency is modified to Rs.8,71,002/- [Rs.7,650/- + 15% of Rs.7,650/- X 12 X 11 X 3/4] (Rs.7,646/- is rounded off to Rs.7,650/- and 15% of Rs.7,650/- comes to Rs.1,147.50, rounded off to Rs.1,148/-). The Tribunal has awarded a sum of Rs.2,000/- towards funeral expenses, which is meager and the same is hereby enhanced to Rs.15,000/-. The Tribunal has not granted any amount



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towards loss of consortium and loss of estate. Therefore, a sum of Rs.40,000/- towards loss of consortium to the first appellant and Rs.15,000/- towards loss of estate are granted by this Court. 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	7,92,000/-	8,71,002/-	enhanced
2.	Funeral expenses	2,000/-	15,000/-	enhanced
3.	Loss of estate	-	15,000/-	granted
4.	Loss of consortium	-	40,000/-	granted
	Total	Rs.7,94,000/-	Rs.9,41,002/-	enhanced by Rs.1,47,002/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,94,000/- is hereby enhanced to Rs.9,41,002/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents are directed to jointly or severally deposit the enhanced 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 are permitted to withdraw their respective share of the enhanced award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. It is made clear that the appellants shall not be entitled to any interest for the delay period in filing the appeal on the amount of Rs.1,47,002/- now enhanced by this Court. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

krk



To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Villupuram.

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+1cc to Mr.PA.Sudesh Kumar, Advocate, S.R.No. 25585

+1cc to Mr.P.Sankara Narayanan, Advocate, S.R.No. 26108

C.M.A.No.657 of 2018

RSI (CO)
GN(14/10/2019)