

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.680 of 2018

1.R.Tamil Selvi

2.V.Mohana

3.V.Selva Kumar

.. Appellants

Vs.

1.Murugan

(Since the 1st respondent remained exparte before the Tribunal his presence may be dispensed with)

2.Cholamandalam MS General Insurance Co. Ltd,
Third Party Cell, Regional Office,
No.45, Moore Street,
Parrys,
Chennai - 600 001.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 02.12.2016 made in M.C.O.P.No.7813 of 2014 on the file of the Motor Accident Claims Tribunal, IV Judge Small Causes Court, Chennai.

For Appellants : Ms.A.Subadra

For R1 : Exparte

For R2 : *Mrs.R.Sreevidhya

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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 award dated 02.12.2016 made in M.C.O.P.No.7813 of 2014 on the file of the Motor Accident Claims Tribunal, IV Judge Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.7813 of 2014 on the file of the Motor Accident Claims Tribunal, IV Judge Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.40,00,000/- as compensation for the death of one Vishvanathan, who died in the accident that took place on 16.07.2014. 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 Tata Ace belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.6,43,000/- as compensation to the appellants. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellant contended that the deceased was working as a vegetable vendor and was earning a sum of Rs.15,000/- per month at the time of the accident. The deceased was aged 58 years. The Tribunal erroneously fixed meagre sum of Rs.6,500/- per month as notional income and deducted 1/3rd towards personal expenses. The Tribunal ought to have awarded for future prospects. The Tribunal has not awarded any amount towards loss of estate. The amounts awarded under different heads are meagre and prayed for enhancement of compensation.

4.Heard the learned counsel appearing for the appellants and perused all the materials available on record.

5.From the materials available on record, it is seen that the appellants have contended that the deceased was working as a vegetable vendor and was earning a sum of Rs.15,000/- per month. The appellants have failed to prove their contention. In the absence of any material evidence, the Tribunal fixed notional income of the deceased at Rs.6,500/- per month. The accident is of the year 2014. The notional income fixed by the Tribunal is meagre. A sum of Rs.7,500/- per month is fixed as notional income. The deceased was aged 58 years. The appellants are entitled to 10% enhancement towards future prospects. The amount granted by the Tribunal towards loss of dependency is modified to Rs.5,94,000/- $(7,500 + 10\%) (8,250 \times 12 \times 9 \times 2/3)$. The Tribunal has awarded a sum of Rs.1,75,000/- under conventional heads and therefore, the appellants are not entitled for any other enhancement. 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	4,68,000	5,94,000	Enhanced
2.	Love and affection	1,50,000	1,50,000	Confirmed
3.	Funeral expenses	25,000	25,000	Confirmed
	Total	Rs.6,43,000/-	Rs.7,69,000/-	Enhanced by Rs.1,26,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,43,000/- is hereby enhanced to Rs.7,69,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants-claimants are 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, 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 the enhanced award amount, on the basis of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS)

***Corrected as per order of
this Court dated 06.08.2020
for being mentioned
in CMA.680/18**

-s/d-

Assistant Registrar(CS)

dt 07/09/2020

//True Copy//

Sub Assistant Registrar

mtl

To

1.The IV Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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

***to be substituted
For the order already
despatched 07.05.2020**

+lcc to M/s.M.Mala , Advocate SR.No. 26426

C.M.A.No.680 of 2018

A.SK(12/02/2020)

A.SK(09/09/2020)



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