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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.729 of 2018

1.M.Radha

2.G.Sasikala

... Appellants

Vs.

1.Mrs.K.Vijayalakshmi

2.The New India Assurance Co. Ltd.,
No.45, 2nd Line Beach Moore Street,
Chennai - 600 001.
Now at:Door No.232, NSC Bose Road,
Bombay Mutual Building,
Chennai - 1.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.11.2017 made in M.C.O.P.No.3007 of 2014 on the file of the Motor Accident Claims Tribunal, VI Judge Small Causes Court, Chennai.

For Appellants : Ms.Ramya V.Rao

For R2 : No appearance

R1 : Exparte before the Tribunal

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 14.11.2017 made in M.C.O.P.No.3007 of 2014 on the file of the Motor Accident Claims Tribunal, VI Judge Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.3007 of 2014 on the file of the Motor Accident Claims Tribunal, VI Judge Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the death of



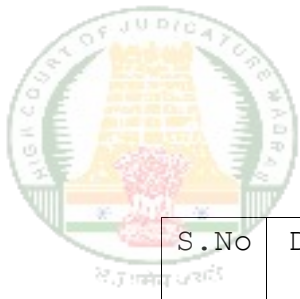
one Palayam, who died in the accident that took place on 29.12.2013. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to the 1st respondent and directed the 2nd-respondent Insurance Company to pay a sum of Rs.3,94,000/- 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 appellants contended that the deceased was working as a servant-maid and was earning a sum of Rs.6,000/- per month. The deceased was aged 60 years at the time of the accident. The Tribunal has not granted any enhancement towards future prospects. Both the appellants are daughters and have claimed compensation for the death of her mother. The Tribunal erred in deducting 50% towards personal expenses of the deceased. The amount granted by the Tribunal towards loss of love and affection is meagre and prayed for enhancement of compensation.

4.Though notice was served on the 2nd respondent-Insurance Company and their name is printed in the cause list, there is no representation on behalf of them either in person or through counsel.

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

6.From the materials available on record, it is seen that the appellants have contended that the deceased was working as a servant-maid and was earning a sum of Rs.6,000/- per month and died at the age of 60 years. The 2nd respondent-Insurance Company has not let in any evidence to disprove their contention. In the absence of any material evidence, the Tribunal has fixed age of the deceased as 60 years and fixed notional income of the deceased at R.6,000/- per month and deducted 50% towards personal expenses of the deceased instead of 1/3rd. The deceased was aged 60 years, the appellants are entitled to 10% enhancement towards future prospects. The amount granted by the Tribunal is modified to Rs.4,75,200/- (6,000 + 10%) (6,600 x 12 x 9 x 2/3). The Tribunal has not awarded any amount towards loss of estate. A sum of Rs.15,000/- is granted towards loss of estate. The amounts awarded by the Tribunal under other heads are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	3,24,000	4,75,200	Enhanced
2.	Love and affection to (each Rs.25,000)	50,000	50,000	Confirmed
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Transport charges	5,000	5,000	Confirmed
5.	Loss of estate	-	15,000	Granted
	Total	Rs.3,94,000/-	Rs.5,60,200/-	Enhanced by Rs.1,66,200/-

7.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,94,000/- is hereby enhanced to Rs.5,60,200/- 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(CCC)

//True Copy//

Sub Assistant Registrar



To

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

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

+1cc to Mr.A.N.Viswanatha Rao, Advocate Sr.25773

C.M.A.No.729 of 2018

ss[co]
srg 22/11/2019