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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.803 of 2018

1.R.Kanniga

2.D.Ramesh

.. Appellants/
Petitioners

Vs.

1.B.Venkatesh

2.Reliance General Insurance Co. Ltd.,
Rals Tower, 2nd floor
Plot No.2054
2nd Avenue, Anna nagar, Chennai-40.
Now at : 6th floor, No.6, Haddows road
Nungambakkam, Chennai-600 035.

.. Respondents/
Respondents

PRAYER:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 06.12.2017 made in MCOP.No.1737 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For appellants : Ms.Ramya V.Rao

For R1 : Not ready in notice

For R2 : Mr.S.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants seeking enhancement of compensation granted



by the Tribunal in the award dated 06.12.2017 made in MCOP.No.1737 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

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2.The appellants/claimants filed MCOP.No.1737 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai, claiming a sum of Rs.10,00,000/- as compensation for the death of their daughter viz., Varshini, who died in the accident that took place on 26.12.2014. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent riding by the 1st respondent/rider-cum-owner of the motorcycle and directed the 2nd respondent/Insurance Company being insurer of the said motorcycle, to pay a sum of Rs.1,81,700/- as compensation to the appellants/claimants. Not being satisfied with the amounts granted by the Tribunal in the award dated 06.12.2017 made in MCOP.No.1737 of 2015, the appellants have come out with the present appeal.

3.The learned counsel appearing for the appellants/claimants contended that the Tribunal erred in awarding a sum of Rs.1,50,000/- towards pecuniary loss. The Tribunal ought to have followed the judgment of the Hon'ble Apex Court and fixed notional income of the deceased child at Rs.7,500/-. In any event, the amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

4.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal considering the judgment of the Hon'ble Apex Court reported in 2014 (1) TNMAC 481 (Puttama and others vs. K.L.Narayana Reddy and another) fixed a sum of Rs.1,50,000/- towards pecuniary loss for the children and the same is proper. The amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

5.Heard the learned counsel appearing for the appellants as well as the 2nd respondent/Insurance Company and perused the materials available on record.

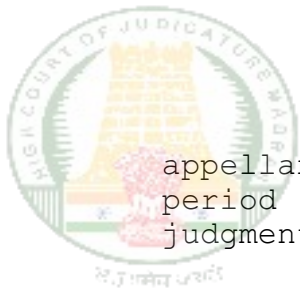
6.From the materials available on record, it is seen that the Tribunal has fixed a sum of Rs.1,50,000/- towards pecuniary loss as per the judgment of the Hon'ble Apex Court referred to above. The appellants have filed claim petition under Section 166 of the Motor Vehicles Act, claiming compensation for the



death of their minor daughter aged 2 1/2 years. The Hon'ble Apex Court taking into consideration the passage of time from the date of II Schedule and the raise in cost of living, has fixed a sum of Rs.30,000/- per annum as the notional income of the deceased minor and applied the multiplier of '15'. This Court in some of the cases fixed a sum of Rs.45,000/- per annum for the deceased minor. Considering the raise in cost of living, the notional income of the deceased is fixed at Rs.30,000/- per annum and applying the multiplier of '15', a sum of Rs.4,50,000/- is awarded towards pecuniary loss. The Tribunal has not awarded any amount towards loss of love and affection to the appellants. This Court awards a sum of Rs.40,000/- each towards loss of love and affection to the appellants. The amounts awarded by the Tribunal under other heads are just and reasonable and the same are hereby confirmed. 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.	Pecuniary loss	1,50,000	4,50,000	Enhanced
2.	Medical bills	1,700	1,700	Confirmed
3.	Loss of love and affection	-	80,000	Granted
4.	Loss of estate	15,000	15,000	Confirmed
5.	Funeral expenses	15,000	15,000	Confirmed
	Total	1,81,700/-	5,61,700/-	Enhanced by Rs.3,80,000/-

7. In the result, the appeal is allowed and award granted by the Tribunal at Rs.1,81,700/- is enhanced to Rs.5,61,700/- along with interest and costs. The 2nd respondent/Insurance Company is directed to deposit the enhanced 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.1737 of 2015. On such deposit, the appellants are permitted to withdraw their respective shares of the award amount, on the basis of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. The



appellants are directed to pay difference in Court fee within a period of two weeks from the date of receipt of a copy of this judgment. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kj

To

1. The Chief Judge, Small Causes Court
(Motor Accident Claims Tribunal),
Chennai.
2. The Section Officer,
VR Section, High Court,
Madras.

+lcc to M/s.A.N.Viswanatha Rao, Advocate, S.R.No.26219
+lcc to M/s.S.Arunkumar, Advocate, S.R.No.26430

C.M.A.No.803 of 2018

SJ(CO)
CS/15/10/2019