



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.887 of 2018

1.Masthanbi
2.Bee Bee John .. Appellants/Petitioners
Vs.

1.Kolagani Hanumatha Rao
2.National Insurance Company Limited,
No.751, Anna Salai,
Chennai - 600 002. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.11.2017 made in M.C.O.P.No.4523 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj
For R2 : Mr.S.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 20.11.2017 made in M.C.O.P.No.4523 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.4523 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. They filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one Shaik Bujji Saheb, who died in the accident that took place on 06.10.2011.

3.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 Auto belonging to the first respondent and directed the second respondent-Insurance Company, being the insurer of the vehicle to pay a sum of Rs.4,61,000/- as compensation to the appellants at the first instance and recover the same from the first respondent.



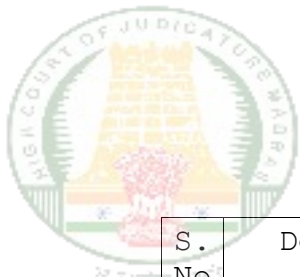
4. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. Though the appellants have raised many grounds with regard to quantum of compensation awarded by the Tribunal, at the time of arguments, the learned counsel for the appellants restricted his arguments only with regard to monthly income of the deceased fixed by the Tribunal and contended that the deceased was working as a coolie and was earning a sum of Rs.10,000/- per month. The Tribunal ought to have fixed monthly income of the deceased at Rs.10,000/- and granted compensation and prayed for enhancement of compensation.

6. Per contra, Mr. S. Arunkumar, learned counsel appearing for the second respondent-Insurance Company contended that the appellants have not let in any material evidence to prove the avocation and income of the deceased. In the absence of material evidence, the Tribunal rightly fixed a sum of Rs.6,000/- as monthly income and granted compensation towards loss of dependency, which is not meager. The amount awarded by the Tribunal under other heads are not meager and prayed for dismissal of the appeal.

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

8. From the materials available on record it is seen that the appellants have contended that the deceased was aged 60 years and was a coolie and was earning a sum of Rs.10,000/- per month. The appellants have not produced any material evidence to prove the same. In the absence of material evidence, the Tribunal fixed a sum of Rs.6,000/- as monthly income of the deceased. The accident occurred in the year 2011. The monthly income of deceased fixed by the Tribunal is meager and a sum of Rs.8,000/- is fixed by this Court as monthly income of the deceased. The deceased was aged 60 years and the appellants are entitled to 10% enhancement towards future prospects. Applying multiplier '7' and deducting $\frac{1}{3}$ towards the personal expenses of the deceased, the amount awarded by the Tribunal towards loss of dependency is modified to Rs.4,92,800/- [Rs.8,000/- + Rs.800/- (10% of Rs.8,000/-) x 12 X 7 x $\frac{2}{3}$]. The amount awarded by the Tribunal under other heads are 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	3,36,000/-	4,92,800/-	enhanced
2.	Loss of consortium	40,000/-	40,000/-	confirmed
3.	Loss of love and affection	50,000/-	50,000/-	confirmed
4.	Loss of estate	15,000/-	15,000/-	confirmed
5.	Transportation	5,000/-	5,000/-	confirmed
6.	Funeral expenses	15,000/-	15,000/-	confirmed
	Total	Rs.4,61,000/-	Rs.6,17,800/-	enhanced by Rs.1,56,800/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,61,000/- is hereby enhanced to Rs.6,17,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay the Court fee, if any on the enhanced amount of compensation. The second 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 at the first instance and recover the same from the first respondent. 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. No costs.

-s/d-
Assistant Registrar (CSIII)

True Copy

Sub-Assistant Registrar

krk



To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

+1 cc to M/s.K.Varadha Kamaraj Advocate sr42146 dt 12/11/2019

C.M.A.No.887 of 2018

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