



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.95 of 2018

1.Jegadhambal
2.Shanmugasundaram
3.Rajeshwari
4.Manivannan
5.Angayee @ Angammal .. Appellants/Petitioners
Vs.

1.Periyadurai
(Notice to R1 may be dispensed
with for the set ex-parte before the Tribunal)

2.Reliance General Insurance Co., Ltd.,
No.408, 3rd Floor, Perundurai Road,
Erode. ..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.08.2017 made in M.C.O.P.No.827 of 2012 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

For Appellants : Mr.T.S.Arthanareeswaran
For respondents : No appearance

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 31.08.2017 made in M.C.O.P.No.827 of 2012 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

2.The appellants are claimants in M.C.O.P.No.827 of 2012 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal. The appellants filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Jagadeesan, who died in the accident that took place on 26.08.2012. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the motorcycle belonging to the 1st respondent and directed the 2nd respondent-



Insurance Company being insurer of the said motorcycle to pay a sum of Rs.3,49,000/- as compensation to the appellant at the first instance and recover the same from the 1st respondent. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

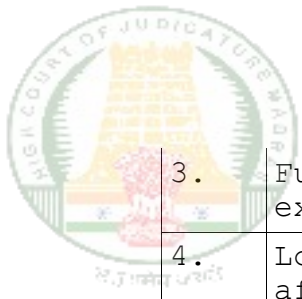
3.The learned counsel appearing for the appellants contended that the deceased was working as a power loom operator and was earning a sum of Rs.10,000/- per month. The Tribunal fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

4.Though notice has been 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 appellant 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 power loom operator and was earning a sum of Rs.10,000/- per month. The accident is of the year 2012 and a sum of Rs.6,000/- per month fixed by the Tribunal as notional income of the deceased is meagre. A sum of Rs.7,500/- is fixed as notional income of the deceased. The amount awarded by the Tribunal towards loss of dependency is modified to Rs.4,72,500/- ($7,500 \times 12 \times 7 \times 3/4$). The Tribunal awarded a sum of Rs.1,000/- towards loss of estate and same is enhanced to Rs.15,000/-. The Tribunal awarded a sum of Rs.5,000/- towards funeral expenses and same is enhanced to Rs.15,000/-. The 1st appellant is the wife of the deceased. No amount is granted by the Tribunal towards loss of consortium. A sum of Rs.40,000/- is granted towards loss of consortium. The amounts awarded by the Tribunal under other heads 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.	Loss of dependency	3,36,000	4,72,500	Enhanced
2.	Loss of estate	1,000	15,000	Enhanced



3.	Funeral expenses	5,000	15,000	Enhanced
4.	Love and affection	2,000	2,000	Confirmed
5.	Transportation	5,000	5,000	Confirmed
6.	Loss of consortium	-	40,000	Granted
	Total	Rs.3,49,000/-	Rs.5,49,500/-	Enhanced by Rs.2,00,500/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,49,000/- is hereby enhanced to Rs.5,49,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-claimant is 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, at the first instance and recover the same from the 1st respondent. On such deposit, the appellants/claimants are permitted to withdraw their respective share from the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Principal District Judge,
Motor Accidents Claims Tribunal, Namakkal.

Copy To: The Section Officer, V.R.Section,
High Court of Madras.

+2cc to M/s.C.Paraneedharan, Advocate Sr.No.20864

AKM/25.09.19/3P-5C /

C.M.A.No.95 of 2018