

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3185 of 2019

1. AMUTHA

2. SEKAR

appellants/Petitioners

Vs

1.K.MOHANRAJ

2.THE ORIENTAL INS.CO.LTD.

NO.115 ORIENTAL HOUSE

2ND FLOOR PRAGASAM

SALAI BROADWAY CHENNAI.

respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed against the Judgment and Decree dated 13.07.2018 in M.C.O.P.No.5800 of 2016 on the file of the Motor Accident Claims Tribunal, Small Causes Court (Special Sub Judge No.2), Chennai.

For appellant : Mr.U.Chithambaram

For respondents : Mr.N.Sampath, for R-2
R-1 exparte

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The Motor Accident Claims Tribunal, Chennai, notwithstanding the evidence tendered by the appellants that the deceased was a third year B.Sc. Student in Visual Communication and that he had the potential to become an expert in visual communication took the notional income at Rs.7,500/- p.m. and awarded compensation to the legal representatives. Feeling aggrieved by the quantum, the claimants have come up with this Civil Miscellaneous Appeal.

2. The appellants are the parents of Mr.Satish, who died in a road accident on 5 September 2016 at Kelambakkam to Vandalore Road, opposite to Rajini Garden, Pudupakkam, in the District of Kanchipuram. He was a pillion rider in the motorcycle bearing registration no.TN 11 M 5316. The motorcycle which was driven in

a rash and negligent manner capsized, resulting in the death of Thiru.Sathish. The deceased was 19 years. He was a III Year student in B.Sc. Visual Communication in the Hindustan College, Padur. The parents made a claim for compensation. The Tribunal assessed the notional income of the deceased at Rs.7,500/- p.m. The Tribunal granted 40% towards future prospects and accordingly fixed the total compensation at Rs.12,76,800/-. The appeal is confined to the quantum fixed by the Tribunal.

3. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the Oriental Insurance company.

4. There is no dispute that the deceased was a III Year student of B.Sc., Visual Communication, Hindustan College, Pudhur Chennai. The documents available on record indicates that he was a very bright student and a recipient of certificate for completing programming in "C" issued by the Academic Council of NIIT. There is a bright chance for a student in visual communication, as the said course is a most sought after one. The Tribunal therefore ought to have fixed the notional income at least at Rs.12,000 p.m. This is all the more so on account of the fact that the accident was in the year 2016.

5. We have perused the entire materials available on record, including the documents exhibited in the claim petition. We are of the view that the notional income should be fixed at Rs.12,000/- p.m. A sum of Rs.80,000/- is granted towards "loss of love and affection". We therefore re-fix the compensation as below :-

	Amount in Rs.
Notional Income fixed	12,000/- p.m.
Loss of dependency (future prospects at 40%)	$12,000 \times 40/100 = \text{Rs.}4,800$
Monthly income	$12,000 + 4,800/- = 16,800$
(Deduction at 50% since the deceased was a bachelor)	
Total monthly income	$16,800/2 = \text{Rs.}8,400/-$
Loss of dependency	$8,400/- \times 12 \times 18 = 18,14,400$
Loss of estate	15,000
Loss of Funeral expenses	15,000

	Amount in Rs.
Medical expenses (Ex.P.2)	1,12,800
Loss of love and affection	80,000
Total	20,37,200

6. The compensation payable to the appellants is fixed at Rs.20,37,200/- (Rupees Twenty Lakhs Thirty Seven Thousand Two Hundred only) in modification of the award passed by the Motor Accident Claims Tribunal. The compensation amount shall carry interest at 7.5%. The second respondent is directed to deposit the balance amount less the amount already deposited with interest and costs, within a period of four weeks from today. The appellants are permitted to withdraw the entire amount in proportion to their share on such deposit.

7. The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tar

To

The Motor Accident Claims Tribunal,
2nd Special Sub Court,
Court of Small Causes, Chennai.

+1cc to Mr.N.Sampath, Advocate SR.82734

+1cc to Mr.U.Chithambaram, Advocate SR.82248

C.M.A.No.3185 of 2019

NRL(CO)

CB(08/11/2019)

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