



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2659 of 2019

1.Kasthuri

2.Viswanathan

... Appellants/Petitioners

Vs.

1.Janakiraman

2.The United India Insurance Co., Ltd.,
Divisional Office - II, First Floor,
Peramanur Main Road, Peramanur,
Salem - 636 007.

3.M/s.Rathnamma Sri Ranga Vilas Motors,
Hosur Cattle Farm Post,
Hosur Taluk, Krishnagiri District - 635 110.

4.The National Insurance Co., Ltd.,
Divisional Office - I, L.R.N.Colony,
2nd Floor, Saradha College Road,
Salem - 636 007.

... Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.01.2019 made in M.C.O.P.No.57 of 2017 on the file of Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.T.S.Arthanareeswaran

For R2 : Mr.C.Paranthaman

For R4 : Mr.J.Chandran

J U D G M E N T

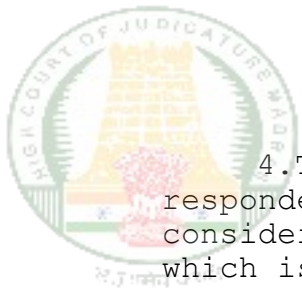
The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 21.01.2019 made in M.C.O.P.No.57 of 2017 on the file of Motor Accident Claims Tribunal, Special District Court, Salem.



2.The brief facts is as follows:

On 03.06.2016 at about 02.30 pm the deceased who is the son of the 1st appellant while he was travelling in a private bus Ranga Vilas bearing Reg.No.TN-29-W-9225(HMV-Ashok Leyland bus) from Krishnagiri to Hosur in the National Highways when the bus approached near Melumalai at that time a Ashok Leyland Tusker Super Lorry bearing Reg.No.KA-01-AC-1780 came from Hosur to Krishnagiri in a rash and negligent manner ran on the centre median and came to opposite side road dashed against an Innova car and the said bus in head on collision with the bus and the bus hit on the Chevrolet car bearing Reg.No.TN-56-K-7777 caused death to the deceased who travelled in the bus. Since the lorry driven in a rash and negligent manner and the said private bus turn at the left side and in turn the said bus hit on the car. Due to the said accident the 1st appellant's son sustained severe injuries of dangerous nature and in spite of given treatment in the Universal Hospital, Salem, he died on 21.06.2016. The claimants, who are the parents of the deceased filed M.C.O.P.No.57 of 2017 on the file of Motor Accident Claims Tribunal, Special District Court, Salem. They filed the said claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of their son, who died in the accident that took place on 03.06.2016. 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 lorry belonging to the 1st respondent and directed both the 1st respondent as well as 2nd respondent/Insurance Company being the insurer of the said lorry to pay a sum of Rs.15,65,850/- as compensation to the appellants jointly and severally. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation. The Tribunal dismissed the claim petition as against the respondents 3 & 4.

3.The learned counsel appearing for the appellants contended that the accident occurred only due to rash and negligent driving by the driver of the lorry bearing Reg.No.KA-01-AC-1780. The Tribunal awarded very meagre sum to the appellants. The appellants lost their son, who was aged 34 years at the time of the accident. He was working as a Executive Officer in Indian Express newspaper company and was earning a sum of Rs.15,000/- per month. Further, he was a post graduate degree holder and he was admitted as in-patient from 04.06.2016 to 21.06.2016 and he died on 21.06.2016. The Tribunal has awarded only a meagre sum under the head of loss of income. The Tribunal has not awarded any amount under the head of loss of love & affection and prayed for enhancement of compensation.



4.The learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering both oral and documentary evidence has awarded a sum which is not meagre and prayed for dismissal of the appeal.

WEB COPY

5.Heard Mr.T.S.Arthanareeswaran, learned counsel appearing for the appellants, Mr.C.Paranthaman, learned counsel appearing for the 2nd respondent/Insurance Company and Mr.J.Chandran, learned counsel appearing for the 4th respondent/Insurance Company and perused all the material on the records.

6.From the award of the Tribunal it is seen that the appellants have contended that the deceased was aged 34 years and was earning a sum of Rs.20,000/- per month in Indian Express, Daily Newspaper, Dharmapuri. The Tribunal has fixed the age of the deceased as 34 years as per Ex.P2/postmortem certificate and Ex.P10 letter from the company wherein the deceased was working, he was earning a sum of Rs.8,500/- per month on contract basis. Further, the appellants have marked Ex.P11 to Ex.P13 to substantiate the said claim. The Tribunal considering the above materials fixed a sum of Rs.9,000/- per month as notional income of the deceased and awarded 40% enhancement towards future prospects and applied multiplier '16' and deducted 50% towards personal expenses and awarded a sum of Rs.12,09,600/- [(Rs.9,000 + 3,600 (Rs.9,000/- of 40%) x 12 x 16 x 50% = Rs.12,09,600/-)] towards loss of future earning. Further, the Tribunal has awarded a sum of Rs.2,86,250/- considering the medical bills, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. The contention of the appellants is that the Tribunal has not awarded any amount towards loss of love & affection. The Tribunal has awarded Rs.20,000/- each towards loss of love & affection to the appellants. Therefore, the said contention raised by the appellants is without merits. The sum awarded by the Tribunal is not excessive and does not require any interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.15,65,850/- awarded by the Tribunal as compensation to the appellants/claimants, along with interest and costs is confirmed. Both the 1st respondent as well as 2nd respondent/Insurance Company are directed to deposit the award amount with interest and costs, jointly and severally, 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.57 of 2017. On such deposit, the appellants are permitted to withdraw their share of the 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.

WEB COPY

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Special District Judge,
Motor Accidents Claims Tribunal,
Salem.

+2 ccs to M/s.C.Paraneedharan, Advocate, S.R.No.53959

+1 cc to M/s.C.Paranthaman, Advocate, S.R.No.53373

C.M.A.No.2659 of 2019

CP(CO)
SSM(14/11/2019)