

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.762 of 2014

1. Rajammal
2. Chinnasamy ... Appellants/Petitioners

Vs.

1. M.Somesundaram
2. The Oriental Insurance Co. Ltd.,
Rep. by its Manager, Divisional Office,
Karur PLA Building, 1st floor,
No.12-A, Kovai Road, Karur, 639 002.
... Respondents/Respondents

Prayer: Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act against the orders dated 26.04.2011 passed in MCOP No.472 of 2009 by the Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri.

For Appellants : Mr.M.Selvam

For Respondents : Mr. S.Arunkumar (for R2)

No appearance for R1

JUDGMENT

The appellants are the claimants in MCOP No.472 of 2009 on the file of the Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri.

2. The appellants/claimants filed the said claim petition under Section 163(A) of the Motor Vehicles Act read with Rule 3 of the Motor Accident Claims Tribunal Rules, seeking compensation of Rs.10,00,000/- for the death of their son in a road accident that took place on 30.07.2008.

3. The case of the claimants is that the deceased Murali was riding his two wheeler bearing registration No.TN-29-AC-6276 along Salem-Hosur Road and at about 18.00 hours, when he was nearing Kadakathur ITI, a goods vehicle bearing registration No.TN-07-E-2062 came with a high speed and hit his motorcycle, as a result of which, he sustained injuries all over his body. The further contention of the claimants is that though their son was admitted in Hospital, he succumbed to injuries on the next day. According to the claimants, the

rash and negligent driving of the driver of the goods vehicle was the cause of accident and that since the owner of the vehicle, the first respondent insured his vehicle with the 2nd respondent, both of them are jointly and severally liable to pay compensation to him.

3. The owner of the goods vehicle, the first respondent herein remained absent before the Tribunal and therefore he was set exparte. The 2nd respondent/insurance company contested the claim petition.

4. After analysing the evidence on record, the Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri. awarded a compensation of Rs.3,49,000/- with interest at the rate of 6% p.a. from the date of claim petition till the date of deposit. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

5. Mr.M.Selvam, learned counsel appearing for the appellants contended that though the claim petition was filed under Section 163(A) of the Motor Vehicles Act, the Tribunal wrongly deducted 50% towards personal expenses of the deceased and that as per II Schedule appended to Section 163(A) of the Motor Vehicles Act, only 1/3 can be deducted towards personal expenses.

6. A perusal of the II Schedule appended to Section 163 of the Motor Vehicles Act clearly shows that only 1/3 can be deducted towards personal expenses of the deceased and therefore, the compensation awarded by the Tribunal is liable to be modified, as calculated hereunder:

Notional Income (as rightly fixed by the Tribunal)= 3,000
Less 1/3rd towards personal expenses (3,000-1000)= 2,000
Proper multiplier = 18
Loss of dependency (2,000x12x 18) = 4,32,000

In addition to that, the claimants are entitled to Rs.2,000/- towards "funeral expenses" and Rs.2,500/- towards "Loss of Estate". The revised compensation awarded by this court under various heads is extracted hereunder.

Sl. No.	Heads	Amount
1	Loss of dependency (2000x12x18)	4,32,000
2	Loss of Estate	2,500
3	Funeral Expenses	2,000
	Total	4,36,500

This amount would carry interest at the rate of 7.5% per annum from the date of claim petition.

7. In the result,

(i) The civil miscellaneous appeal is allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.3,49,000/- to Rs.4,36,500/-

(iii) The 2nd respondent is directed to deposit the enhanced compensation amount of Rs.4,36,500/- together with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit (less the amount if any already deposited by them), within 4 weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the 2nd respondent, the claimants/appellants are entitled to withdraw the same, after following due process of law, as per the apportionment made by the Tribunal.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mst

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy To
The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.M.Selvam, Advocate SR.No.77319

+1cc to Mr.S.Arunkumar, Advocate SR.No.77432

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MG(CO)
GMY(10/01/2020)