

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1556 of 2017

Lalitha, w/o.Palani (died)

1.V.P.Palani

2.V.P.Sampath Kumar

3.V.P.Selvendran

4.V.P.Girija

... Appellants/Petitioners

Vs

1. Kala

2. Shriram General Insurance Co.Limited
No.66, 2nd Floor, City Centre Complex
Thirumalaipillai Road,
Chennai-600 001.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 04.11.2016 made in MCOP No.1118 of 2010 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Poonamallee.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : No appearance for R1
Mr.S.Dhakshnamoorthy for R2

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.7,874/- towards compensation due to the death of the wife of the first appellant, in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. 23.10.2010 at about 09.30 a.m., the deceased Lalitha was sweeping along with 3 other co-workers in the Maduravoyal Bye-Pass Road near Porur Bridge. At that time, the TATA Indica Car bearing Reg.No.PY-01-AB-5544 belonging to

the first respondent herein and insured with the second respondent Insurance Company, came from behind in a rash and negligent manner from Tambaram to Maduravoyal direction and dashed against the deceased as well as the other co-workers. Due to the said impact, the deceased sustained grievous injuries on her hand and all over the body and in the course of treatment, she died. The legal heirs of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.7,874/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellants-claimants have filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellants /claimants has submitted that the Tribunal has erred in coming to the conclusion that the deceased died only due to cancer and not due to the injuries suffered in the accident. He further submitted that the Tribunal has awarded only a meagre sum of Rs.7,874/- towards medical expenses and not awarded any amount towards loss of estate and loss of income. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the second respondent / Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellants and the learned counsel for the second respondent and perused the materials and evidence available on record carefully and meticulously.

7.It is seen that the deceased was taking treatment as in-patient from 23.10.2010 to 10.11.2010, 05.03.2011 to 02.04.2011, 13.04.2011 to 10.11.2011 and she died on 19.11.2011. She was working as sweeper in the National Highways Authority of India. Due to the accident, she suffered fracture in left leg and grievous injuries in the abdomen. In the circumstances, the Tribunal has awarded only a sum of Rs.7,874/- towards medical expenses, without taking note of all other aspects. Considering the period of treatment undergone by the deceased, nature of injuries and other aspects, this Court deems it fit to enhance the compensation awarded by the Tribunal to Rs.53,874/-. The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Loss of income for 5 months	20,000/-
Transport expenses	5,000/-
Extra nourishment	10,000/-
Attender Charges	10,000/-
Damages to clothes & articles	1,000/-
Medical expenses	7,874/-

TOTAL...	53,874/-
	=====

8.Thus, the appellants / claimants are entitled to the modified compensation of Rs.53,874/-. It is made clear that only for the compensation of Rs.7,874/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.46,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

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

10.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants / claimants shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(Arbitration)

//True Copy//

Sub Assistant Registrar

KM
To

1. The Motor Accidents Claims Tribunal,
(III Additional District Court), Poonamallee.
2. The Section Officer, VR Section, Madras High Court.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.83237
+1cc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No.83502

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LN(CO)
CS/05/06/2020