

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

CIVIL MISCELLANEOUS APPEAL NO.1968 OF 2017

1. D.Dillibai
 2. K.Kothandapani
 3. Saradha
- ... Appellants/Claimants

..Vs..

1. Mary Ruth Veronica
 2. The New India Assurance Co. Ltd.
No.4 Muthulinga Reddy Street,
West Tambaram, Chennai - 45
- ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 19.07.2013, made in M.C.O.P.No.3138 of 2008 on file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.P.G.Padmanabhan, for R-2
Mr.R.Balakrishnan, for R-1

JUDGMENT

The deceased K.Dharanipathy, aged 52, Grade I Fitter in Southern Railways, who earned a sum of Rs.15,000/- per month, died in an accident, on 28.06.2008.

2. The Legal Representatives, who are claimants/ appellants, as wife and parents of the deceased have filed the claim petition claiming a sum of Rs.10,00,000/- as compensation.

3. As against the claim made for a sum of Rs.10,00,000/-, the Tribunal has passed an award for a sum of Rs.6,32,828/-, as per the following breakup details:-

Loss of dependency		
(Rs.60,824/- x 8)	-	Rs. 4,86,592.00
(Rs.30,412 x 3)	-	Rs. 91,236.00
Loss of consortium	-	Rs. 10,000.00
Loss of love and affection-		Rs. 25,000.00
Funeral expenses	-	Rs. 5,000.00
Transport expenses	-	Rs. 5,000.00
Loss to estate	-	Rs. 10,000.00

Total	-	Rs. 6,32,828.00

4. Branding the award as lesser and disproportionate, the claimants, as appellants, have preferred this Appeal.

5. Since there is no dispute with regard to the negligence aspect, this Court would like to deal with the quantum alone, confirming the negligence aspect.

6. The main contention of the learned counsel for the appellants is only with regard to the loss of dependency awarded to the family of the deceased. He submitted that the Tribunal went wrong in fixing the income of the deceased at Rs.7,603/- per month as against the claim of Rs.15,000/- per month. He also submitted that the Tribunal has not adopted the proper multiplier. He further submitted that as per the decisions of this Court and the Supreme Court, particularly, 2009 (2) TN MAC 1 (SC) (Sarla Verma and others v. Delhi Transport Corporation) the correct multiplier to be adopted is 11.

7. It is seen that the Tribunal has correctly analyzed the materials on record and fixed the monthly income of the deceased at Rs.7,603/- per month on the basis of Ex.P-6, but has wrongly applied the multiplier of 8 instead of 11, which needs interference. Hence, applying the multiplier of 11, deducting 1/3rd towards the personal expenses, the loss of dependency has to be calculated and if calculated, the loss of dependency would be Rs.6,69,108/- (Rs.7,603/- (-) Rs.2,535/- : Rs.5069 x 12 x 11), rounded off to Rs.6,69,100/-. The amount awarded other heads, viz., loss of consortium, loss of love and affection, loss to estate, transportation expenses and funeral expenses at Rs.10,000/-, Rs.25,000/-, Rs.10,000/-, Rs.5,000/- and Rs.5,000/- respectively, are awarded by the Tribunal based on settled principles of law and weightage of evidence and hence, this Court is of the opinion that the interference of the same is not necessary.

8. In the result, this Civil Miscellaneous Appeal is partly-allowed by enhancing the total amount of compensation from Rs.6,32,828/- to Rs.7,24,100/- with interest at the rate of

7.5% per annum from the date of petition till the date of deposit. No costs.

9. The second respondent/Insurer is directed to deposit the enhanced compensation amount, less the amount already deposited, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Accounts of the respective appellants/claimants, within one week thereafter, through RTGS, as per the ratio of apportionment made by the Tribunal. The court fee for the enhanced compensation amount shall be deposited by the appellants before receiving the copy of this judgment. Needless to state that the appellants are not entitled to any interest for the default period, if any.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
Chief Small Causes Court, Chennai.
2. The Section Officer,
V.R.Section, High Court, Madras.

+lcc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.96832

+lcc to Mr.P.G.Padmanabhan, Advocate, S.R.No.96788

C.M.A.No.1968 of 2017

PA(CO)
CS/19/10/2020

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