

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3536 of 2017

P.S.Rosi

.. Appellant/ Petitioner

Vs.

1.Charukesi

2.Bajaj Alliance General Insurance Company Ltd.,
Old Nos.276 & 277, New No.497 & 498,
Isanakattima Building, 5th Floor,
Poonamallee High Road,
Arumpakkam,
Chennai - 600 106.

3.C.V.Sampath

4.S.Nagammal .. Respondents/ respondents
(No relief sought against the 1st respondent,
hence notice may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under
Section 173 of Motor Vehicles Act, 1988, against the judgment
and decree dated 31.07.2017 made in M.C.O.P.No.179 of 2016 on
the file of the Motor Accident Claims Tribunal, II Additional
District Judge,Vellore District.

For Appellant : Mr.M.Sivakumar

For R2 : Mr.J.Michael Visuvasam

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the
appellant/claimant seeking enhancement of compensation
granted by the Tribunal in the award dated 31.07.2017 made in
M.C.O.P.No.179 of 2016 on the file of the Motor Accident
Claims Tribunal, II Additional District and Sessions Court,
Ranipet.

2.By consent of both the learned counsel appearing for the appellant and 2nd respondent, the appeal is taken up for final disposal at the stage of admission itself.

3.The appellant is claimant in M.C.O.P.No.179 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Ranipet. She filed the said claim petition claiming a sum of Rs.12,00,000/- as compensation for the death of one Ramesh, who died in the accident that took place on 18.08.2008. 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 Tata Indica car belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.6,78,000/- as compensation to the appellant and respondents 3 & 4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant/claimant contended that the Tribunal failed to note that the wife and mother of the deceased are equally entitled to the apportionment of compensation. A sum of Rs.1,00,000/- awarded by the Tribunal towards compensation to the appellant is meagre. The deceased was a tailor and was earning a sum of Rs.7,500/- per month. The Tribunal ought to have fixed monthly income of the deceased at Rs.7,500/- instead of Rs.4,500/-. The deceased was aged 25 years and the Tribunal ought to have awarded 50% enhancement towards future prospects and prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellant married one Deivasigamani after the death of the deceased. In view of the same, the appellant is not entitled to get any compensation and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused all the materials available on record.

7.From the materials available on record, it is seen that the deceased was a tailor and was earning a sum of Rs.7,500/- per month. In the absence of any evidence, the Tribunal has fixed a sum of Rs.4,500/- per month as notional income of the deceased. The accident is of the year 2008. The notional income so fixed by the Tribunal is meagre. This Court fixes a sum of Rs.6,500/- per month including future prospects as notional income of the deceased. By applying

multiplier 18 and deducting 1/3rd towards personal expenses, the pecuniary loss awarded by the Tribunal is modified to Rs.9,36,000/- (Rs.6,500/- X 12 X 18 X 2/3). A sum of Rs.5,000/- awarded by the Tribunal towards funeral expenses is meagre and this Court enhances the same to Rs.15,000/-. No amount was awarded by the Tribunal towards loss of estate. This Court awards a sum of Rs.15,000/- towards loss of estate. The learned counsel appearing for the appellant admitted that the appellant got married after the death of the deceased and in view of the same, the appellant is not entitled to any compensation for loss of consortium. A sum of Rs.20,000/- granted by the Tribunal towards loss of love and affection is meagre and the respondents 3 & 4 are entitled to Rs.20,000/- each towards loss of love and affection. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary loss	6,48,000	9,36,000	Enhanced
2.	Loss of love and affection to the respondents 3 and 4	20,000	40,000	Enhanced
3.	Loss of consortium	5,000	-	Set aside
4.	Funeral expenses	5,000	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
	Total	Rs.6,78,000/-	Rs.10,06,000/-	Enhanced by Rs.3,28,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,78,000/- is hereby enhanced to Rs.10,06,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The appellant being wife of the deceased is entitled to a sum of Rs.1,28,000/- and the respondents 3 & 4 being parents of the deceased are entitled to a sum of

Rs.4,39,000/- each as compensation. The 2nd respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant and the respondents 3 & 4 are permitted to withdraw their respective shares of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The II Additional District Judge,
Motor Accidents Claims Tribunal, Vellore,
Ranipet.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr. C.Prakasam, Advocate SR.No.20824

+1cc to Mr.J.Michael Visuvasam , Advocate SR.No. 20195

C.M.A.No.3536 of 2017

A.SK(17/07/2019)

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