



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.372 of 2017

1.Rathinam
2.Revathi
3.Minor Chamraj
4.Minor Uthradevi .. Appellants/Petitioners
(Minors rep. by their next
friend & mother, Revathi)

Vs.

1.M.Rajan
2.D.Subramaniam
(R1 & R2 were set exparte in the trial court)
3.The Branch Manager
The Oriental Insurance Co. Ltd.,
59, Raja Street
Gobichettipalayam - 638 476. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 31.01.2014 made in MACT. OP. No.57 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Perundurai.

For Appellants : Mr.C.Munusamy
For Respondent 3 : Mr.S.Manohar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants-claimants, challenging the award dated 31.01.2014, made in MACT. OP. No.57 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Perundurai.

2. By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3. The appellants-claimants filed MACT. OP. No.57 of 2012 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Perundurai, claiming a sum of Rs.20,00,000/- as



compensation for the death of one Thiagarajan who died in the accident that took place on 07.12.2011.

WEB COPY

4. 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 bus belonging to the second respondent and directed the respondents to pay a sum of Rs.13,75,000/- as compensation jointly and severally to the appellants.

5. Not being satisfied with the amounts granted by the award dated 31.01.2014 made in MACT. OP. No.57 of 2012, the appellants/claimants have come out with the present appeal.

6. The learned counsel appearing for the appellants contended that the amount awarded by the Tribunal is very meagre. The Tribunal erred in not awarding any compensation for future prospects. The Tribunal failed to consider that the deceased was aged 39 years and working as Conductor in Transport Corporation and had he been alive, he would have been promoted and salary would have been increased to the extent of Rs.25,000/- per month. The Tribunal erred in adopting multiplier 14 instead of 16. The Tribunal ought to have awarded a sum of Rs.20,00,000/- as compensation for the death of Thiagarajan and prayed for enhancement of compensation.

7. Per contra, Mr.S.Manohar, learned counsel appearing for the third respondent/Insurance Company contended that the amount awarded by the Tribunal under different heads are not meagre and hence, prayed for dismissal of the appeal.

8. Heard Mr.C.Munusamy, learned counsel appearing for the appellant as well as Mr.S.Manohar, learned counsel appearing for the third respondent and perused the materials available on record.

9. From the materials on record, it is seen that the deceased was aged 39 years at the time of accident and was working as conductor in Tamil Nadu Transport Corporation. The Tribunal fixed the monthly income of the deceased at Rs.11,700/- as per Ex.P8. The Tribunal has not awarded any enhancement for future prospects. The appellants are entitled to 40% enhancement towards future prospects ($11,700 \times 40\% = 4680$). The four claimants have claimed compensation. The Tribunal deducted $1/3^{\text{rd}}$ instead of $1/4^{\text{th}}$ towards the personal expenses of the deceased. The appellants are entitled to the deduction of $1/4^{\text{th}}$ towards personal expenses. In view of the above, the loss of dependency is modified as Rs.20,63,880/- [$11,700 + 4,680(11,700 \times 40\%) \times 12$]



x 14 x (3/4)]. The amount granted by the Tribunal for loss of consortium to the second appellant is meagre and the same is enhanced to Rs.40,000/-. A sum of Rs.5,000/- was granted by the Tribunal for funeral expenses is meagre and the same is enhanced to Rs.15,000/-. The Tribunal has not awarded any compensation for loss of estate. The appellants are entitled to a sum of Rs.15,000/- for loss of estate. The other amounts awarded by the Tribunal are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
Loss of dependency	13,10,400/-	20,63,880/-	Enhanced
Loss of consortium	25,000/-	40,000/-	Enhanced
Loss of love and affection	30,000/-	30,000/-	Confirmed
Transportation	5,000/-	5,000/-	Confirmed
Funeral Expenses	5,000/-	15,000/-	Enhanced
Loss of estate	Nil	15,000/-	granted
Total	13,75,400/-	21,68,880/-	
Rounded off to	13,75,000/-	21,68,880/-	Enhanced by Rs.7,93,880/-

10. In the result, the appeal is partly allowed and amount awarded by the Tribunal at Rs.13,75,000/- is enhanced to Rs.21,68,880/- along with interest and costs. The appellants are directed to pay the necessary court fee, if any, on the enhanced compensation. The respondents are directed to deposit the award amount jointly and severally along with interest from the date of claim till the date of deposit 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, to the credit of MACT. OP. No.57 of 2012. On such deposit, the first and second appellants are permitted to withdraw their respective shares of award amount, less the amount already withdrawn, if any, by filing necessary applications before the



Tribunal. Since the third and fourth appellants are minors, their share of award amount is directed to be deposited in any one of the Nationalised Banks, till they attain majority and the mother of the minors is permitted to withdraw the interest accrued once in six months. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
(Subordinate Court), Perundurai

+1 cc to M/s.C.Munusamy, Advocate Sr.No. 15219

+1 cc to M/s.S.Monohar, Advocate Sr.No. 15073

AKM/05.12.19/4P-4C /

C.M.A.No.372 of 2017