

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3515 of 2008

Manikandan (deceased)

1.Indirani

2.R.P.Krishnan Appellants/Claimants

Vs.

1.General Manager
Milk Product Factory
Chittoor.

2.Divisional Manager
National Insurance Company Ltd.
Vellore. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.07.2006 made in M.C.O.P.No.711 of 2002 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.II, Ranipet.

For Appellants : Mr.S.Nambi Arooran

For R2 : Mr.J.Chandran

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 30.07.2006 made in M.C.O.P.No.711 of 2002 on the file of Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.II, Ranipet.

2.The appellants are claimants in M.C.O.P.No.711 of 2002 (earlier M.C.O.P.No.344 of 1999 on the file of Sub Court, Ranipet) on the file of Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.II, Ranipet. They filed the said claim petition claiming a sum of Rs.4,81,000/- as compensation for the death of their son viz., Manikandan, who died in the accident that took place on 19.07.1999.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident has occurred due to rash and negligent driving by the driver of the lorry belonging to the 1st respondent and directed the 2nd respondent/Insurance Company being insurer of the said lorry, to pay a sum of Rs.25,000/- as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the Tribunal failed to grant compensation as claimed by the appellants. The Tribunal erred in holding that the son of the appellants did not die due to the injuries sustained by him in the accident and erred in not awarding any compensation for the death of their son. The Tribunal failed to award compensation for entire medical expenses, pain and suffering, permanent disability, loss of earning power, extra nourishment and transportation, as claimed by the appellants and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellants failed to prove that the deceased died due to the injuries sustained by him in the accident that occurred on 19.07.1999. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the 2nd respondent/Insurance Company and perused the entire materials available on record.

8.From the materials available on record, it is seen that the accident has occurred on 19.07.1999. The appellants' son died on 03.06.2002 after two years of the accident. The claim petition was filed by one Manikandan, the son of the appellants, claiming compensation for the injuries sustained by him in the accident. Pending claim petition, the said Manikandan died. The appellants, who are parents of the said Manikandan, were impleaded as claimants. They did not amend the claim petition and plead that their son died due to the injuries sustained by him in the accident. The appellants have not let in any evidence to show that their son was continuously taking treatment till his death. They have not examined the Doctor to show that their son died due to the injuries sustained in the accident. The appellants failed to prove the nexus between the injuries and death and therefore, they are not entitled to get compensation for the death of their son.

8(i).The appellants have claimed that they have spent a sum of Rs.3,00,000/- towards medical expenses. They have produced Exs.P1 to P3/medical bills to show that they incurred expenses to the tune of Rs.25,471, Rs.2,000/- and Rs.25,000/- respectively and in total, Rs.52,471/-. The Tribunal awarded only a sum of Rs.25,000/- towards medical expenses, which is not correct. The appellants are entitled to a sum of Rs.52,471/- instead of Rs.25,000/- as compensation towards medical expenses as per Exs.P1 to P3. Though the Tribunal held that the appellants are entitled to compensation towards transportation, extra nourishment and medical expenses, the Tribunal has not awarded any compensation towards transportation and extra nourishment. The appellants have given treatment to the deceased in three different hospitals viz., C.M.C. hospital, Vellore, S.M.H. hospital, Ranipet and Ramachandra hospital, Porur. The deceased was alive for two years after the accident. The appellants would have spent money for extra nourishment and attendant charges. Therefore, the appellants are entitled to a sum of Rs.25,000/-, Rs.30,000/- and Rs.30,000/- towards transportation, extra nourishment and attendant charges respectively. 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 or reduced
1.	Medical expenses	25,000	52,471	Enhanced
2.	Transportation	-	25,000	Granted
3.	Extra nourishment	-	30,000	Granted
4.	Attendant charges	-	30,000	Granted
	Total	25,000	1,37,471 rounded off to 1,37,500	Enhanced by Rs.1,12,500/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.25,000/- is hereby enhanced to Rs.1,37,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay

necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount if any, already deposited by them, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw equal share of the enhanced award amount now determined by this Court, along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
The Additional District and Sessions Judge,
Fast Track Court No.II, Ranipet.

Copy to

The Section Officer,
V.R.Section,
High Court, Chennai.

+lcc to Mr.S.Nambi Arooran, Advocate SR.21089
+lcc to Mr.J.Chandran, Advocate Sr.21087

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