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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No. 1763 of 2015

1.Mahaliammal
2.Poomanam
3.Rathinam

.. Appellants/Claimants

Vs.

1.Bhoopathy
2.United India Insurance Co. Ltd.,
Old Bus Stand Road,
Perundurai Town,
Perundurai Taluk,
Erode District.

.. Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 30.01.2015, made in M.C.O.P. No. 77 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Perundurai.

For Appellants : Mr. C. Munusamy

For Respondents: Mr. V. Kadhirvelu (For R1)

Mr. D. Bhaskaran (for R2)

J U D G M E N T

This appeal has been filed seeking enhancement of the compensation granted by the award dated 30.01.2015, made in M.C.O.P. No. 77 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Perundurai.

2.The appellants are the claimants in M.C.O.P. No. 77 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Perundurai. They filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one Chellappagounder, who died in the accident that took place on 21.04.2014.



3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the 1st respondent, rider-cum-owner of the Motorcycle and directed the 2nd respondent-Insurance Company to pay a sum of Rs.2,77,389/- as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 30.01.2015, made in M.C.O.P. No. 77 of 2014, the appellants have come out with the present appeal.

5.Learned counsel appearing for the appellants contended that the deceased was an Agriculturist and was doing milk vending business and was earning a sum of Rs.25,000/- per month. Considering the oral evidence, the Tribunal ought to have fixed atleast, a sum of Rs.7,500/- per month, instead of fixing a meagre sum of Rs.3,000/- as notional income of the deceased. The Tribunal has failed to grant any enhancement towards future prospects of the deceased. The amounts awarded by the Tribunal under the heads viz., funeral expenses, loss of love and affection and loss of expectation of life are meagre and prayed for enhancement of the compensation.

6.Per contra, Mr. D. Bhaskaran, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellants have not filed any document to prove the avocation and income of the deceased. The deceased was aged 74 years at the time of accident. The Tribunal rightly considering the age of the 1st appellant, wife of the deceased as 69 years, applied multiplier '5' and awarded compensation under the head, loss of earnings. The amounts awarded by the Tribunal under different heads are not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellants, learned counsel appearing for the 1st respondent as well as the learned counsel appearing for the 2nd respondent and perused the materials available on record.

8.From the materials on record, it is seen that the appellants have contended that the deceased was an Agriculturist and was earning a sum of Rs.25,000/- per month. The appellants have failed to prove the avocation and income of the deceased. The accident is of the year 2014. The amount of Rs.3,000/- per month fixed by the Tribunal as notional income of the deceased is meagre. Hence, this Court fixes a sum of Rs.9,000/- per month as notional income of the deceased. The deceased was aged 74 years at the time of accident. The Tribunal held that the appellants are not entitled for any enhancement towards future



prospects, on the ground that the deceased was aged 74 years at the time of accident. The reason given by the Tribunal for not granting enhancement towards future prospects is proper. Hence, the compensation awarded by the Tribunal towards loss of earnings is modified to Rs.3,60,000/- {Rs.9,000/- x 12 x 5 x 2/3}. The Tribunal has awarded a meagre sum of Rs.10,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses and the same are enhanced to Rs.40,000/- to the 1st appellant, wife of the deceased and Rs.15,000/- to the appellants towards funeral expenses. The amounts awarded by the Tribunal under the heads, medical expenses and transportation charges are just and reasonable and hence, the same are confirmed. 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.	Loss of earnings	1,20,000/-	3,60,000/-	enhanced
2.	Loss of consortium	10,000/-	40,000/-	enhanced
3.	Loss of love and affection	30,000/-	30,000/-	confirmed
4.	Medical expenses	1,07,389/-	1,07,389/-	confirmed
5.	Transport charges	5,000/-	5,000/-	confirmed
6.	Funeral expenses	5,000/-	15,000/-	enhanced
	Total	2,77,389/-	5,57,389/-	Enhanced by Rs.2,80,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.2,77,389/- is enhanced to Rs.5,57,389/- along with interest and costs. The 2nd respondent Insurance Company is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No. 77 of 2014. On such deposit, the appellants are permitted to withdraw their shares of the award amount, along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.



The appellants are directed to pay the court fee, if any, on the enhanced amount of Rs.2,80,000/-. No costs.

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Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Perundurai.

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

+1cc to Mr.C.Munusamy , Advocate SR.No. 2937

+1cc to Mr.D.Bhaskaran , Advocate SR.No. 2553

C.M.A. No. 1763 of 2015

A.SK(27/08/2020)