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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2020

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2057 of 2013

1.S.Kanchana
2.S.Kishore Kumar (minor)
3.S.Suvantika (minor) ...Appellants
(minors appellants 2 and 3 are rep.
By their mother and next friend, 1st appellant)

Vs.

1.All Cargo Global Logistics,
No. 913, Thiruvottiyur High Road,
Chennai 57, Ernavoor.

2.HDFC Ergo General Insurance Co. Ltd.,
No. 177, Raheja Towers,
Ground Floor, Anna Salai,
Chennai 2. ...Respondents
(1st respondent set exparte before the Tribunal
and hence, dispensed with)

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 23.07.2012, made in M.C.O.P. No. 3113 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.E.Raja Durai
for M/s.M.B.Gopalan (For R2)

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 23.07.2012, made in M.C.O.P. No. 3113 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.



2..The appellants-claimants filed M.C.O.P. No. 3113 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.20,00,000/- as compensation for the death of one S. Sridhar, who died in the accident that took place on 09.05.2009.

3.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 Container Lorry belonging to the 1st respondent and directed the 2nd respondent, as insurer of the vehicle to pay a sum of Rs.14,91,340/- as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 23.07.2012, made in M.C.O.P. No. 3113 of 2009, the appellants have come out with the present appeal.

5.Learned counsel appearing for the appellants contended that the deceased was working as a A.T.M. Fitter in Metropolitan Transport Corporation and was earning a sum of Rs.15,000/- per month. The Tribunal ought to have considered the evidence of P.W.1 and P.W.3 and the documentary evidence marked as Exs.P10 to P17 and fixed a sum of Rs.15,000/- per month as income of the deceased, instead of Rs.12,095/-. The Tribunal has not granted any enhancement towards future prospects of the deceased. The compensation awarded by the Tribunal towards loss of love and affection, loss of consortium and funeral expenses are meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal has rightly considered the evidence on record and fixed the monthly income of the deceased and awarded just compensation, which is not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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

8.It is the contention of the appellants that the deceased was working as a A.T.M. Fitter in Metropolitan Transport Corporation and was earning a sum of Rs.15,000/- per month. The Tribunal considering Ex.P15 - last pay slip, fixed a sum of Rs.12,095/- per month as income of the deceased. The deceased was aged 36 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects. Considering



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the permanent employment of the deceased as Government servant, the appellants are entitled to 50% enhancement towards future prospects. There are three dependents of the deceased. Hence, after deducting 2/3rd towards personal expenses of the deceased and applying the multiplier '15', the amount awarded by the Tribunal towards pecuniary loss is modified to Rs.21,77,100/- {[Rs.12,095/- + Rs.6,047.5/- (50% of Rs.12,095/-)] x 12 x 15 x 2/3}. The amounts awarded by the Tribunal towards loss of consortium to the 1st appellant, loss of love and affection to the appellants 2 and 3 and funeral expenses are meagre and hence, the same are enhanced to Rs.40,000/-, Rs.40,000/- and Rs.15,000/- respectively. The Tribunal has not awarded any amount towards loss of estate. The appellants are entitled to a sum of Rs.15,000/- towards loss of estate.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. 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	14,51,340/-	21,77,100/-	Enhanced
2.	Loss of love and affection to the appellants 2 and 3	20,000/-	40,000/-	Enhanced
3.	Loss of consortium to the 1 st appellant	10,000/-	40,000/-	Enhanced
4.	Funeral expenses	10,000/-	15,000/-	Enhanced
5.	Loss of estate	-	15,000/-	Granted
	Total	14,91,340/-	22,87,100/-	Enhanced by Rs.7,95,760/-

10.In the result, the appeal is allowed and the amount awarded by the Tribunal at Rs.14,91,340/- is enhanced to Rs.22,87,100/- together 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. 3113 of 2009. On such deposit, the 1st appellant is permitted to withdraw her share of the award amount along with proportionate interest and costs, as per the ratio of apportionment fixed above, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. The shares of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalized Banks, till the minors attain majority. The 1st appellant, mother of the minor appellants 2 and 3 is permitted to withdraw the accrued interest, once in three months for the welfare of the minor appellants 2 and 3. The appellants are directed to pay the court fee, if any, on the enhanced amount of Rs.7,95,760/-. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

The Chief Judge,
Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.

Copy To

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

+1cc to M/s.K.Varadhakamaraj, Advocate SR.No.18118

+1cc to M/s.M.B.Gobalan, Advocate SR.No.18312

C.M.A.No.2057 of 2013

VSN-II (CO)
RVM(22/11/2021)