

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2321 of 2015

E.Paramasivam

.. Appellant

Vs.

1.Kamalakannan

2.Oriental Insurance Company Limited

No.115/16, Second Floor,
Oriental House,
Prakasam Salai,
Broadway,
Chennai-600 108.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 11.08.2014 made in M.A.C.T.O.P.No.5828 of 2012 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Petitioner : Mrs.A.Subadra
for M/s.M.Malar

For Respondents : Non-appearance for R1
Mr.S.Arun kumar for R2

J U D G M E N T

The Judgment and decree dated 11.08.2014 passed in M.C.O.P.No.5828 of 2012 is sought to be quashed in the present appeal.

2. The claim petition was filed seeking compensation of Rs.10,00,000/- for the death of one Mr.R.Ranganayagi. On 26.06.2011 at about 4.30 p.m., while the deceased was waiting for crossing the GST Road Pallavaram cum Thiruneermalai Road junction from east to west direction, at that time the Indica car bearing Regn.No.TN 72 M 0199 which belongs to the 1st respondent came from Pallavaram to Tambaram in a rash and negligent manner and hit against the deceased person. The

deceased Ranganayagi sustained multiple grievous injuries all over the body and died at Government General Hospital. The driver of the 1st respondent vehicle was responsible for the accident and the first respondent in the claim petition is the owner of the vehicle and the second respondent/Insurance Company is the insurer of the vehicle. The Tribunal adjudicated the issues with reference to the documents and the evidences produced by the respective parties. The liability was fixed and the Tribunal arrived at a conclusion that the accident occurred only on account of the rash and negligent driving of the first respondent driver. With reference to the quantum of compensation, the Tribunal arrived a monthly income of Rs.3,000/- and by deducting 1/3 income, the quantum of compensation is calculated as (Rs.2000 X 12X 5= Rs.1,20,000/-.)

3. The learned counsel appearing on behalf of the appellant mainly contended that fixing an income of Rs.2,000 is inadequate and not in accordance with the principles to be followed. The minimum income of Rs.6,000/- is to be fixed, in view of the fact that the accident occurred on 26.06.2011. It is contended that the compensation awarded under various heads are also inadequate and the same is to be enhanced.

4. The learned counsel appearing on behalf of the respondents/Insurance Company disputed the said contention by stating that regarding deduction towards personal expenses, 50% is to be reduced. The Tribunal has erroneously reduced 1/3 which is not in accordance with the principles. In the present case, brother of the deceased alone is the claimant, therefore, 50% is to be reduced.

5. This Court is of the considered opinion that the contention of the learned counsel appearing on behalf of the Insurance Company is to be accepted, with regard to deduction of the personal income as 50%. It is further to be noted that the brother of the deceased is the only legal heir and cannot be construed as a dependent. It would be appropriate to grant compensation towards loss of Estate. Accordingly, the compensation awarded by the Tribunal is re-scheduled as hereunder:

Loss of Estate (Rs.3000 X 12 X 5)	: Rs.1,80,000/-
Loss of love and affection	: Rs.40,000/-
Transportation	: Rs.10,000/-
Funeral Expenses	: Rs.15,000/-
Total	: Rs.2,45,000/-

6. The second respondent/Insurance Company is directed to deposit the enhanced compensation along with interest at the rate of 7.5% per annum, if not already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire amount with accrued interest by filing an appropriate application and the payments are to be made through RTGS. The appellant is directed to pay the additional Court fee for enhanced compensation.

7. Accordingly, the judgment and decree dated 11.08.2014 passed in M.C.O.P.No.5828 of 2012 is quashed and Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To

The Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai.

Copy to :

The Section Officer,
VR Section
High Court Madras.

+1 cc to M/s.S.Arunkumar, Advocate Sr.No. 21296

+1 cc to M/s.M.Malar, Advocate Sr.No. 21104

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C.M.A.No.2321 of 2015

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RMP(08/01/2021)

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