

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2424 of 2015

1.Lalitha

2.Pugalendrian ...Appellants/Petitioners

Vs.

1.M/s.R.R.K.Enterprises

At 19/1, Bharathiyar Street, RMS, Colony,
North Extension, Edamalaipattipudur,
Tiruchirapalli-620 012

2.The Branch Manger,

M/s.United India Insurance Company Limited,
Branch Officer No.1,114/120 Super Bazaar,
Tiruchirapalli

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 05.12.2013 made in M.C.O.P.No.529 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur.

For Appellants: Mr.T.Gopinath

for M/s.Royan Law Associates

For R2

:Mr.D.Bhaskaran

For R1

:Sd-NA

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 05.12.2013 made in M.C.O.P.No.529 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur.

2.The appellants are claimants in M.C.O.P.No.529 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur. They filed the said claim petition claiming a sum of Rs.8,00,000/- as compensation for the death of one Selvaraj who died in the accident that took place on 09.01.2011.

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 Tata Ace belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.6,28,000/- as compensation to the appellants.

4.Not being satisfied with the quantum of compensation 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 deceased was working as a agricultural coolie and was earning a sum of Rs.300/- per day at the time of the accident but the Tribunal has fixed a meager sum of Rs.6,000/- per month as notional income of the deceased. The deceased was aged 53 years at the time of the accident. The Tribunal has not awarded any enhancement towards future prospects. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellants have not filed any documents to prove the avocation and income of the deceased. In the absence of any material evidence, the Tribunal has fixed Rs.6,000/- per month as notional income of the deceased which is not meagre. The Tribunal after considering the materials available on record, has awarded just compensation.

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 learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

8. It is the contention of the appellant that the deceased was working as an agricultural coolie and was earning a sum of Rs.300/- per day at the time of the accident. The appellants have not filed any document to substantiate the said contention. In the absence of any material evidence, the Tribunal has fixed notional income of the deceased at Rs.6,000/- per month, which is meager. The accident is of the year 2011. A sum of Rs.7,500/- per month is fixed as notional income of the deceased. As per Ex.P3/postmortem certificate, the deceased was aged 55 years at the time of accident. The Tribunal has not awarded any enhancement towards future prospects. The appellants are entitled to 10% enhancement towards future prospects. The Tribunal applied multiplier '11' and deducted 1/3rd towards personal expenses which is proper. The amount awarded by the Tribunal towards loss of income is enhanced to Rs.7,26,000/- $[(Rs.7,500/- + 750 (Rs.7,500/- \times 10\%) \times 12 \times 11 \times 2/3)]$. The amounts awarded by the Tribunal towards loss of conjugal happiness to the 1st appellant and funeral expenses are meagre and hence the same are hereby enhanced to Rs.40,000/- and Rs.15,000/- respectively. The amount awarded by the Tribunal towards loss of estate is excessive and hence the same is hereby reduced to Rs.15,000/-. The amounts awarded by the Tribunal towards loss of love & affection and transport charges are just and reasonable and hence the same are hereby 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 income	5,28,000	7,26,000	Enhanced
2.	Loss of conjugal happiness to the 1 st appellant	30,000	40,000	Enhanced
3.	Loss of love and affection	40,000	40,000	Confirmed

4.	Funeral expenses	5,000	15,000	Enhanced
5.	Transport charges	5,000	5,000	Confirmed
6.	Loss of estate	20,000	15,000	Reduced
	Total	Rs.6,28,000/-	Rs.8,41,000/-	Enhanced by Rs.2,13,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,28,000/- is hereby enhanced to Rs.8,41,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants 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 already deposited if any, 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 their respective share of the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsn

To

1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.T.Gopinath for M/s.Royan Law Associates,
Advocate SR.8691.

+1cc to Mr.D.Bhaskaran, Advocate SR.8021/20

C.M.A.No.2424 of 2015

RJI (CO)
CB(16/09/2020)



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