IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.26.08.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3048 of 2012

Yovan (Since Died)
Sounthari ... Appellant/Petitioners

vs.

1.Shivakumar
2.National Insurance Company Limited,
Thiru Vi Ka Industrial Estate,
Chennai - 600 032. ...Respondents/Respondents
(R1 remained exparte before the Tribunal)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 17.04.2012 and made in MACTOP.No.2776 of 2007 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mrs.M.Malar

For Respondents : Mrs.K.Saraswathi for R2
R1 - Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This appeal has been filed by the claimant seeking enhancement of compensation awarded by the Tribunal under the impugned award dated 17.04.2012 passed by the Motor Accident Claims Tribunal (IVth Court of Small Causes, Chennai) in MCOP.No.2776 of 2007.

2. Heard Mrs.M.Malar learned counsel for the Appellant and Mrs.K.Saraswathi, learned counsel for the second respondent. The first respondent remained exparte both before the Tribunal as well as this Court.

3. A person by name Thomas died on 22.04.2001 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The parents who are the legal representatives of the deceased preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.2776 of 2007 seeking compensation for the death of Thomas. During the pendency of MCOP.No.2776 of 2007, Yuvan who is the father of the deceased, the first claimant died and his wife, the second claimant was brought on record as his legal representative.

4. By an award dated 17.04.2012, the Motor Accident Claims Tribunal directed the second respondent to pay the Appellant Soundari a compensation of Rs.3,32,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pecuniary Loss	3,12,000/- (3000 - 1/3 = 2000 x 12 x 13)
Funeral Expenses	10,000/-
Love and Affection	10,000/-
Total	3,32,000/-

5. The Appellant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this Appeal seeking for enhancement. According to her, the compensation awarded by the Tribunal is inadequate and it has to be enhanced.

6. Since no documentary evidence has been produced by the claimant to prove the avocation and income of the deceased, the Tribunal has rightly assessed the monthly income of the deceased on notional basis at Rs.3,000/-. The deceased Thomas was aged 21 years at the time of the accident which has not been disputed by the respondents before the Tribunal. However, under the impugned award, the Tribunal has erroneously applied 13 multiplier instead of 18 multiplier which is applicable for a person whose age is 21 years at the time of the accident. The Tribunal has also erroneously deducted 1/3rd towards personal expenses of the deceased instead of 50% as the deceased was a bachelor at the time of the accident. Therefore, after deduction of 50%, the notional monthly income of the deceased will be Rs.1,500/- and not Rs.2,000/- fixed by the Tribunal. Therefore,

by adopting multiplier of 18 instead of 13 adopted by the Tribunal, the pecuniary loss suffered by the Appellant on account of death of Thomas will be Rs.3,24,000/- instead of Rs.3,12,000/- assessed by the Tribunal.

7. The Tribunal has awarded a sum of Rs.10,000/- towards Funeral expenses and another sum of Rs.10,000/- towards loss of love and affection to the claimant which in the considered view of this Court is a correct assessment and there is no scope for interference.

8. Excepting for enhancing the compensation under the head pecuniary loss suffered by the claimant, there is no scope for interference by this Court in respect of other heads.

9. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.3,32,000/- to Rs.3,44,000/- as detailed hereunder:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Pecuniary Loss	3,12,000/- (3000 - 1/3 = 2000 x 12 x 13)	3,24,000/- (3000 - 50% = 1500 x 12 x 18)
Funeral Expenses	10,000/-	10,000/-
Loss of love and affection	10,000/-	10,000/-
Total	3,32,000/-	3,44,000/-

Conclusion:

10. In the result, this Appeal is partly allowed by enhancing the compensation awarded by the Tribunal to Rs.3,44,000/- from Rs.3,32,000/-. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second respondent insurance company is directed to deposit the modified award amount i.e., Rs.3,44,000/- along with interest from the date of claim till the date of deposit and cost after deducting the amount already deposited if any to the credit of MCOP.No.2776 of 2007 within a period of four weeks from the date

of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest lying to the credit of MCOP.No.2776 of 2007 to the bank account of the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to M/s.M.Malar, Advocate Sr.27941

C.M.A.No.3048 of 2012

kj[co]
srg 06/02/2021