

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1838 of 2016

1.P.Nallammal

2.C.Peria Karuppan

.. Appellants/Claimants

Vs.

1.S.Murali Mohan

2.Shriram General Insurance

Company Ltd.,

City Centre Complex,

2nd Floor, No.66, Thirumalai Pillai Road,

T.Nagar, Chennai 600 017.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.02.2015 made in M.C.O.P.No.3859 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondents : Mr.K.Poomalai for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 12.02.2015 made in M.C.O.P.No.3859 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.3859 of 2013 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. They filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the death of one Karthick who died in the accident that took place on 27.05.2013.

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 lorry belonging

to the first respondent, insured with the second respondent and directed the respondents to jointly and severally pay a sum of Rs.7,28,000/- as compensation to the appellants.

4. Not being satisfied with the amounts 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 a Tea master and was earning a sum of Rs.12,000/- per month at the time of accident. The Tribunal fixed a meagre sum of Rs.6,000/- as monthly income of the deceased. The deceased was aged 22 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The Tribunal failed to grant any amount towards loss of estate and the amounts awarded by the Tribunal under different heads are also meagre and prayed for enhancement of compensation.

6. Per contra, Mr.K.Poomalai, learned counsel appearing for the second respondent-Insurance Company contended that the appellants did not let in any material evidence to prove that the deceased was a Tea master and was earning a sum of Rs.12,000/- per month at the time of accident. In the absence of any material evidence to substantiate their contention, the Tribunal rightly fixed a sum of Rs.6,000/- as monthly income, which is not meagre. The amounts awarded by the Tribunal under other heads are not meagre and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the second respondent-Insurance Company and perused the entire materials on record.

8. It is the contention of the appellants that the deceased was a Tea master and was earning a sum of Rs.12,000/- per month at the time of accident. The appellants have not let in any material evidence to prove the avocation and income of the deceased. In the absence of material evidence, the Tribunal fixed a sum of Rs.6,000/- as monthly income of the deceased. The accident occurred in year 2013 and the monthly income fixed by the Tribunal is meager. Hence, a sum of Rs.9,000/- is fixed as monthly income of the deceased. The deceased was aged 22 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 40% enhancement towards future prospects. The deceased was a bachelor. After deducting 50% towards personal expenses of the deceased and applying multiplier '18', the amount granted by the Tribunal towards loss of pecuniary benefits is modified to Rs.13,60,800/- [(Rs.9,000/- + 3,600 (40%

X Rs.9,000) x 12 x 18 x 1/2)]. The Tribunal has granted a sum of Rs.25,000/- towards loss of love and affection, which is meagre and the same is enhanced to Rs.80,000/- (Rs.40,000/- x2). The amount awarded by the Tribunal towards funeral expenses is excessive and the same is reduced to Rs.15,000/-. The Tribunal has not granted any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards loss of estate. The amount awarded by the Tribunal towards transport expenses is just and reasonable and hence, the same is hereby confirmed.

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.	Loss of pecuniary benefits	6,48,000/-	13,60,800/-	Enhanced
2.	Loss of love & affection	50,000/-	80,000/-	Enhanced
3.	Funeral expenses	25,000/-	15,000/-	Reduced
4.	Transportation	5,000/-	5,000/-	Confirmed
5.	Loss of estate	-	15,000/-	Granted
	Total	Rs.7,28,000/-	Rs.14,75,800/-	enhanced by Rs.7,47,800/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,28,000/- is hereby enhanced to Rs.14,75,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation. The respondents are jointly and severally 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 now determined by this Court, as per the ratio of apportionment

fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vkr

To

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

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

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.13305

+1cc to M/s.K.Poomalai, Advocate, S.R.No.13818

C.M.A.No.1838 of 2016

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