

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.277 of 2020

Chandran

... Petitioner/Tribunal/
1st Respondent/ Appellant

Vs.

1.Sureka

2.The Manager,
(T.P. Claims)
SBI General Insurance Company Ltd.,
Motor Third Party Claims,
No.6, Greams Road, Ground Floor,
Opposite to Thousand Lights Police Station,
Chennai. Respondents/Respondents

(No relief sought against the 1st respondent
Hence notice may be dispense with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.10.2019 made in M.C.O.P.No.394 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.

For Appellant : Mr.M.Sivakumar

For R2 : Ms.C.Harini
for Mr.M.B.Raghavan

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 14.10.2019 made in M.C.O.P.No.394 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.

2.The appellant is claimant in M.C.O.P.No.394 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional

District and Sessions Court, Vellore. The appellant filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the death of one Manjula, who died in the accident that took place on 30.04.2015.

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 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.8,16,000/- as compensation to the appellant.

4.Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that the deceased was aged 40 years and was earning a sum of Rs.10,000/- per month by working as a mason at the time of the accident. The Tribunal has fixed only a meagre sum of Rs.4,500/- per month as notional income of the deceased. The Tribunal has not awarded any compensation towards loss of estate. 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 appellant has 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.4,500/- per month as notional income of the deceased which is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant 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 a mason and was earning a sum of Rs.10,000/- per month at the time of the accident. The appellant has 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.4,500/- per month, which is meagre. The accident is of the year 2015. A sum of Rs.9,000/- per month is fixed as notional income of the deceased. The deceased was aged 39 years at the time of accident. The Tribunal has rightly awarded 40% enhancement towards future prospects. The Tribunal applied multiplier '15' and deducted 1/3rd towards personal expenses. The multiplier adopted by the Tribunal is proper. There is only one dependent, depending on the deceased and therefore 1/2 has to be deducted towards personal expenses. Thus, the loss of income awarded by the Tribunal is enhanced to Rs.11,34,000/- [(Rs.9,000/- + 3,600 (Rs.9,000/- x 40%) x 12 x 15 x 1/2)]. The Tribunal has not granted any compensation towards loss of estate. A sum of Rs.15,000/- is granted towards loss of estate. The amounts awarded by the Tribunal under other heads 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	7,56,000	11,34,000	Enhanced
2.	Loss of consortium	40,000	40,000	Confirmed
3.	Transport expenses	5,000	5,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
5.	Loss of estate	-	15,000	Granted
	Total	Rs.8,16,000/-	Rs.12,09,000/-	Enhanced by - Rs.3,93,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.8,16,000/- is hereby enhanced to Rs.12,09,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is 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, appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mtl
To

- 1.The I Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Vellore.
- 2.The Section Officer,
VR Section,
High Court,
Madras.

+lcc to Mr.M.Sivakumar, Advocate Sr.10358
+lcc to Mr.M.B.Raghavan, Advocate Sr.11032

C.M.A.No.277 of 2020

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