

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3044 of 2013

1.G.Mobel Hanny
2.G.Linston Arokiadass (Minor)
3.G.Samston Christudass (Minor)
4.Simrose Mary
5.A.Antonydass
(Minor appellants 2 and 3 rep. By
their mother & next friend G.Mobel Hanny)... Appellants/Ptitioners

Vs.

1.S.Baskaran
(R1 was set exparte before the Tribunal)
2.The National Insurance Co. Ltd.,
Third Party Cell,
No.751, Anna Salai, Chennai 2. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.06.2013, made in M.C.O.P. No.905 of 2012, on the file of the VI Judge, (Motor Accident Claims Tribunal), Court of Small Causes, Chennai.

For Appellants : Mr. K. Suryanarayanan

For Respondents : Ms. N.B. Surekha (For R2)

J U D G M E N T

The matter is heard through "Video Conferencing".

This appeal has been filed for enhancement of the compensation granted by the award dated 10.06.2013, made in M.C.O.P. No.905 of 2012, on the file of the VI Judge, (Motor Accident Claims Tribunal), Court of Small Causes, Chennai.

2.The appellants-claimants filed M.C.O.P. No.905 of 2012, on the file of the VI Judge, (Motor Accident Claims Tribunal), Court of Small Causes, Chennai, claiming a sum of Rs.20,00,000/- as compensation for the death of one A.Gilbert Johnson, who died in the accident that took place on 14.02.2005.

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 as insurer of the said vehicle to pay a sum of Rs.8,73,000/- as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal in the award dated 10.06.2013, made in M.C.O.P. No.905 of 2012, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that the deceased was working as a Sales cum Accounts Officer in M/s. Geetha Enterprises and was earning a sum of Rs.5,200/- per month. The Tribunal ought to have considered the age, avocation and income of the deceased and awarded compensation towards future prospects. There are five dependants of the deceased. The amounts awarded by the Tribunal towards loss of consortium and loss of love and affection are meagre. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the same.

6.Per contra, the learned counsel appearing for the 2nd respondent contended that the Tribunal considering the avocation and income, fixed the monthly income of the deceased and rightly deducted 1/4th towards the personal expenses as there are 5 dependants of the deceased and awarded compensation under the head, pecuniary loss. The Tribunal has awarded excessive sum of Rs.50,000/- towards loss of consortium to the 1st appellant/wife of the deceased and Rs.10,000/- towards loss of love and affection to each of the appellants 2 to 5 who are the children and parents of the deceased. The total compensation awarded by the Tribunal is not meagre. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8.From the materials on record, it is seen that at the time of accident, the deceased was aged 32 years and working as Sales cum Accounts Officer in M/s.Geetha Enterprises and was earning a sum of Rs.5,200/- per month. The appellants have produced Ex.P14 ? Salary Certificate to prove the income of the deceased. The Tribunal having accepted the monthly income of the deceased, failed to award any amount towards future prospects. Considering the age of the deceased, 40% enhancement is granted towards the future prospects. There are five dependants of the deceased. Hence, deducting 1/4th towards personal expenses of the deceased

and applying the multiplier '16', the compensation granted by the Tribunal towards pecuniary loss is enhanced to Rs.10,48,320/- {[Rs.5,200/- + Rs.2,080/- (40% of Rs.5,200)] x 12 x 16 x 3/4}. The sum of Rs.50,000/- awarded by the Tribunal towards loss of consortium to the 1st appellant is excessive and hence, the same is reduced to Rs.40,000/-. The amount awarded by the Tribunal towards loss of love and affection to the minor appellants 2 and 3 who are the children of the deceased is meagre and hence, the same are enhanced to Rs.30,000/- each. The Tribunal has not awarded any amount towards loss of estate. A sum of Rs.15,000/- is awarded towards loss of estate. The amount of Rs.10,000/- awarded towards funeral expenses is meagre and the same is enhanced to Rs.15,000/-. The amount of Rs.10,000/- each awarded to the appellants 4 and 5 towards loss of love and affection and Rs.23,719/- awarded towards the medical expenses to the appellants are just and reasonable and hence, the same are 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.	Pecuniary loss	7,48,800/-	10,48,320/-	Enhanced
2.	Loss of consortium	50,000/-	40,000/-	Reduced
3.	Funeral expenses	10,000/-	15,000/-	Enhanced
4.	Loss of love and affection to appellants 2 and 3	20,000/-	60,000/-	Enhanced
5.	Loss of love and affection to appellants 4 and 5	20,000/-	20,000/-	Confirmed
6.	Medical expenses	23,719/-	23,719/-	Confirmed
7.	Loss of estate	-	15,000/-	Granted
	Total	8,72,619/- rounded of to 8,73,000/-	12,22,039/- - rounded of to 12,23,000/-	Enhanced by Rs.3,50,000/ -

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.8,73,000/- is enhanced to Rs.12,23,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The

2nd respondent is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.905 of 2012. On such deposit, the appellants 1, 4 and 5 are permitted to withdraw their share of the award amount alongwith proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. The shares of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalized Banks, till the minors attain majority. The 1st appellant, mother of the minor appellants 2 and 3 is permitted to withdraw the accrued interest, once in three months for the welfare of the minor appellants 2 and 3. The appellants are directed to pay the court fee, if any, on the enhanced amount of Rs.3,50,000/-. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gsa

To

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

Copy to:

The Section Officer,
V.R Section,
High Court, Madras.

+lcc to Mrs.N.B.Surekha, Advocate, S.R.No.33221

+lcc to Mr.K.Suryanarayanan, Advocate, S.R.No.32957

C.M.A.No.3044 of 2013

SVI (CO)
CB(26/04/2021)