

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3669 of 2013

1.Devi
2.C.Chinnakaruppan ..Appellants/Claimants

Vs.

1.M/s.Sri Devi Bus Transport,
No.20, Bharathi Nagar,
Krishnagiri Main Road,
Hosur.

2.The Oriental Insurance Co. Ltd,
Rep. by its Branch Manager,
No.3-L, Siddhaveerappa Chetty Street,
Dharmapuri.

3.M.Krishnasamy

4.The National Insurance Company Ltd,
Rep. by its Branch Manager,
Trichy.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.10.2011 made in M.C.O.P.No.770 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Court, Dharmapuri.

For Appellants : Mr.M.Selvam
For R1 : Not ready in Notice

For R2 : Mr.S.Arunkumar

For RR3 & 4 : No appearance

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 31.10.2011 made in M.C.O.P.No.770 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Court, Dharmapuri.

2.The appellants are claimants in M.C.O.P.No.770 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Court, Dharmapuri. They filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of their daughter viz., Deepa, who died in the accident that took place on 13.07.2008.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the drivers of the bus and lorry belonging to the respondents 1 & 3 respectively. The Tribunal awarded a sum of Rs.1,70,000/- as compensation to the appellants and directed the respondents 1 & 2 to jointly and severally liable to pay 50% of the award amount i.e., a sum of Rs.85,000/- and the respondents 3 & 4 are liable to pay the remaining 50% of the award amount i.e., a sum of Rs.85,000/- 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 Tribunal erred in awarding only a sum of Rs.1,70,000/- as compensation for the death of the daughter of the appellants against the claim of Rs.10,00,000/-. The Tribunal failed to consider and appreciate the evidence of PW1 & PW2 properly and awarded lumpsum amount as compensation. The Tribunal has not awarded any enhancement towards future prospects. The amounts awarded by the Tribunal towards loss of love & affection and transport are meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal fixed the notional income of the deceased minor at Rs.10,000/- per annum as per II Schedule of the Motor Vehicles Act and adopted the multiplier of '15', which is proper. The amounts awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

7.Though notice was served on the 3rd respondent and 4th respondent/Insurance Company and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel.

8.Heard the learned counsel appearing for the appellants as well as the 2nd respondent/Insurance Company and perused the materials available on record.

9.From the materials available on record, it is seen that the appellants have filed claim petition, claiming compensation for the death of their minor daughter who was aged 10 years at the time of accident. The Tribunal fixed the notional income of the deceased at Rs.15,000/- per annum and applied multiplier of '15' as per II Schedule of the Motor Vehicles Act. The Tribunal deducted 1/3rd towards personal expenses and fixed Rs.10,000/- as annual income of the deceased. The Hon'ble Apex Court in the judgment reported in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC), taking into consideration the passage of time from the date of II Schedule and the rise in cost of living, has fixed a sum of Rs.30,000/- per annum as the notional income of the deceased minor and applied the multiplier of '15'. This Court in some of the cases fixed a sum of Rs.45,000/- per annum for the deceased minor. Considering the rise in cost of living, the notional income of the deceased is fixed at Rs.30,000/- per annum and applying the multiplier of '15', a sum of Rs.4,50,000/- is awarded towards pecuniary loss. Rs.5,000/- each awarded by the Tribunal towards loss of love & affection to the appellants 1 & 2 and Rs.10,000/- awarded by the Tribunal towards transport & funeral expenses are meagre and hence, the same are hereby enhanced to Rs.25,000/- each to the appellants 1 & 2 and Rs.15,000/- respectively. The Tribunal has not awarded any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards loss of estate.

10.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.	Pecuniary loss	1,50,000/-	4,50,000/-	enhanced
2.	Loss of love and affection	10,000/-	50,000/-	enhanced
3.	Transport & funeral expenses	10,000/-	15,000/-	enhanced
4.	Loss of estate	-	15,000/-	granted
	Total	1,70,000/-	5,30,000/-	Enhanced by Rs.3,60,000/-

11. In the result, the appeal is allowed and award granted by the Tribunal at Rs.1,70,000/- is enhanced to Rs.5,30,000/- along 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. It is made clear that the appellants shall not be entitled for any interest for the delay period on the amount of Rs.3,60,000/- enhanced by this Court as per the order of this Court dated 26.08.2013 in M.P.No.1 of 2013 in C.M.A.Sr.No.13236 of 2013. The respondents 1 & 2 are directed to deposit 50% of the enhanced award amount now determined by this Court i.e., Rs.2,65,000/, jointly and severally and respondents 3 & 4 are directed to deposit 50% of the enhanced award amount i.e., Rs.2,65,000/-, 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 award amount 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

mtl

To

1.The Principal District Judge
Motor Accident Claims Tribunal,
Dharmapuri.

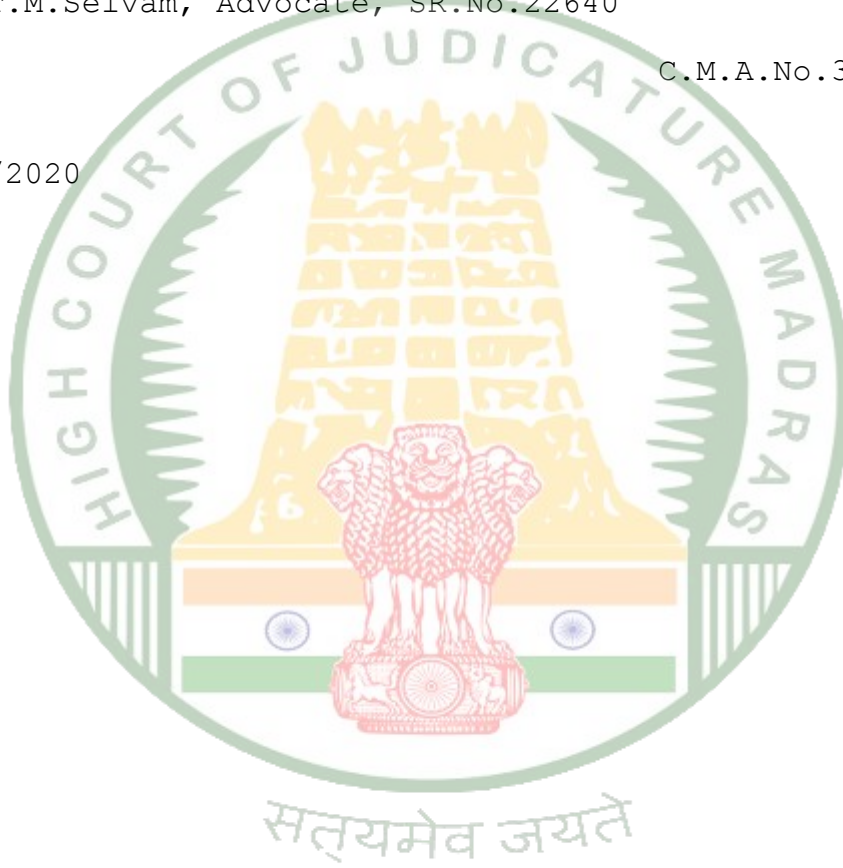
2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.S.Arunkumar, Advocate, SR.No.22958

+1cc to Mr.M.Selvam, Advocate, SR.No.22640

C.M.A.No.3669 of 2013

VBA (CO)
KKV/10/12/2020



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