

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2518 of 2016

1.S.Vasanthi
2.Srinivasan

.. Appellants/Petitioners

Vs.

1.M/s.Adhiparasakthi Engg. College,
Melmaruvathur, Kachipuram Dist.

(R1 already set exparte in Lower Court)
(R1 Notice may be dispense with)

2.The United India Insurance Co. Ltd.,
No.235, New Military Road,
Avadi, Chennai - 53.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.07.2013 made in M.C.O.P.No.1201 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Thiruvallur at Poonamallee.

For Appellants : Ms.Y.Jayanthi Bhaskar
for Mr.J.Mahalingam

For R2 : Mr.J.Michael Visuvasam

JUDGMENT

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 12.07.2013 made in M.C.O.P.No.1201 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Thiruvallur at Poonamallee.

2.The appellants are claimants in M.C.O.P.No.1201 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Thiruvallur at Poonamallee. They filed the said claim petition claiming a sum of Rs.30,00,000/- as compensation for the death of their son viz., Sathyanarayanan, who died in the accident that took place on 22.05.2010.

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 bus belonging to the 1st respondent and directed the 2nd respondent/Insurance Company to pay a sum of Rs.7,48,052/- as compensation to the appellants.

4. Not being satisfied with the quantum of the 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/claimants contended that the deceased was B.Tech. graduate and he was studying 2nd year M.B.A in S.R.M.University at the time of accident. The Tribunal has fixed a meagre sum of Rs.7,000/- per month as notional income of the deceased and the deduction of 1/3rd towards personal expenses is not correct. The deceased was aged 23 years at the time of the accident. The Tribunal has not granted any enhancement towards future prospects. The Tribunal erred in applying the multiplier '13' instead of applying multiplier '18', taking into consideration the age of the mother of the deceased. The Tribunal has not granted any amount towards loss of estate and therefore, prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal after considering the materials available on record, has awarded just compensation. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8.It is the contention of the appellants that the deceased was B.Tech. graduate and was studying 2nd year M.B.A. at the time of accident. The Tribunal has fixed notional income of the deceased at Rs.7,000/- per month and the same is meagre. The accident is of the year 2010. A sum of Rs.10,000/- per month is fixed as notional income of the deceased. The Tribunal has not granted any enhancement towards future prospects. The deceased

was aged 23 years at the time of accident. The appellants are entitled to 40% enhancement towards future prospects. The Tribunal has taken age of the mother for applying multiplier and applied multiplier 13, which is not correct. As per the judgment of the Hon'ble Apex Court reported in "2017(2) TN MAC 609(SC) (National Insurance Company Limited versus Pranay Sethi)" the age of the deceased has to be taken into account for applying multiplier. Accordingly the multiplier applicable for the deceased aged 23 years is '18'. The deceased died as a bachelor. Hence after deducting 1/2 towards personal expenses of the deceased, the amount awarded by the Tribunal towards loss of dependency is modified to Rs.15,12,000/- [(Rs.10,000 + 4,000 (Rs.10,000/- x 40%) x 12 x 18 x 1/2)]. The amounts awarded by the Tribunal towards loss of love & affection and funeral expenses are meagre and the same are enhanced to Rs.80,000/- and Rs.15,000/- respectively. 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 awarded by the Tribunal towards transport expenses is just and reasonable and hence the same is 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 dependency	7,28,052	15,12,000	Enhanced
2.	Loss of love and affection	10,000	80,000	Enhanced
3.	Transport expenses	5,000	5,000	Confirmed
4.	Funeral expenses	5,000	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
	Total	Rs.7,48,052/-	Rs.16,27,000/-	Enhanced by - Rs.8,78,948/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,48,052/- is hereby enhanced to Rs.16,27,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants are 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, the appellants/claimants are permitted to withdraw their respective share of the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

mtl

To

1.The II Additional District Judge,
Motor Accidents Claims Tribunal,
Thiruvallur,
Poonamallee.

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

+2cc to Mr.J.Mahalingam, Advocate, SR.No.8446.
+1cc to Mr.J.Michael Visvasam, Advocate, SR.No.7514.

GP(CO)
CSR: 10.02.2020

C.M.A.No.2518 of 2016

सत्यमेव जयते

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