

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2460 of 2019

1.Agilandam
2.M.Yogaraj
3.Gokila

.. Appellants/Petitioners

vs.

1.S.Palaniyandi
2.M/s.National Insurance
Company Limited,
74-A, Paramathi Road,
Namakkal-637 001.

... Respondents/Respondents

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.1389 of 2013 dated 16.12.2015 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Namakkal.

For Appellant : Mr.C.Thangaraju

For Respondents : No-appearance for R1

Mr.J.Chandran for R2

J U D G M E N T
सत्यमेव जयते

The award dated 16.12.2015 passed in M.C.O.P.No.1389 of 2020 is under challenge in the present appeal.

2. The claimants are the appellants herein, who filed an appeal seeking enhancement of compensation.

3. The learned counsel for the appellants/claimants contended that the accident occurred on 18.04.2013 and the age of the deceased was 31 years at the time of accident. The deceased was working as Heavy Vehicle Cleaner and getting the monthly income of Rs.9,000/-. A case was registered in Crime No.341 of 2013 under Sections 279, 304(A) IPC. Thereafter, the

claim petition was filed and the Tribunal adjudicated the issues with reference to the documents and evidence produced by the respective parties. As far as the negligence is concerned, the Tribunal arrived at a conclusion that the accident occurred due to rash and negligent driving of the driver of the offending vehicle which is insured by the second respondent/Insurance Company. Accordingly, the first respondent was held liable and the second respondent is directed to pay compensation. Regarding the quantum of compensation, the Tribunal granted a sum of Rs.5,91,000/- as total compensation. The learned counsel for the appellants/claimants reiterated that the quantum of compensation is inadequate, in view of the fact that the deceased was aged about 31 years and he was working as heavy vehicle cleaner and drawing the monthly salary of Rs.9,000/-. Therefore, the compensation is unreasonable.

4. The learned counsel appearing on behalf of the second respondent/Insurance Company disputed the contention by stating that the compensation awarded by the Tribunal is reasonable, in view of the fact that the parents as well as the sister are the claimants and the deceased was working as a cleaner which cannot be construed as a Technical job. Therefore, the compensation awarded is reasonable and the appeal is to be dismissed.

5. This Court is of the considered opinion that the age of the deceased at the time of the accident was 31 years. Admittedly, the accident occurred and the said accident was established before the Tribunal. The deceased was working as a cleaner in a Heavy vehicle. Therefore, the said job cannot be undermined while considering the compensation. The job of a cleaner in a heavy vehicle is also a tough job and he has to assist the driver throughout long drive in all circumstances. Thus, the monthly income fixed by the Tribunal is improper and it would be appropriate that if a sum of Rs.9,000/- is fixed as monthly income of the deceased for the purpose of calculating the compensation. Accordingly, the appellants/claimants are entitled for 40% future prospects and 50% is to be deducted, since the deceased was a bachelor and multiplier "16" is adopted.

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6. In view of the fact that the total compensation of Rs.5,91,000/- awarded in a death is inadequate, this Court is inclined to enhance the compensation as detailed hereunder:

(i) loss of earning	:	Rs.12,09,600/-
(Rs.6,300 X 12 X 16)		
(ii) Loss of Estate	:	Rs.15,000/-
(iii) Funeral Expenses	:	Rs.15,000/-
(iv) Love and Affection	:	Rs.40,000/-
(v) Transportation Charges	:	Rs.5,000/-
Total	:	Rs.12,84,600/-

7. The appellants/claimants are entitled for the total compensation of Rs.12,84,600/- along with interest at the rate of 7.5% per annum. Accordingly, the second respondent/Insurance Company is directed to deposit the entire amount with accrued interest within a period of 12 weeks from the date of receipt of a copy of this Order and on such deposit, the appellants/claimants are permitted to withdraw their respective portion of the compensation as apportioned by the Tribunal in its award by filing an appropriate application and the payments are to be made through RTGS. Thus, the judgment and decree dated 16.12.2015 passed in M.C.O.P.No.1389 of 2013 stands modified and the Civil Miscellaneous Appeal stands allowed in part. The appellants are directed to pay additional court fee, if any, within a period of two weeks from the date of receipt of a copy of this Judgment.

Sd/-

Assistant Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ssb

To

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

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

C.M.A.No.2460 of 2019

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