

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 574 of 2020

1.Kuppayi

2.Venkatachalam

3.Maheswari

4.Iyappan

... Appellants/Petitioner

Vs.

1.The Managing Trustee,
Rabindranath Tagore Arts and Science College for Women,
Veerachipalayam, Sankari West - Post,
Sankari Taluk, Salem District.

2.The National Insurance Co., Ltd.,
2nd Floor, 81-D, North Car Street,
Tiruchengode Town & Taluk - 637 211.

3.The National Insurance Company Ltd.,
HUB Division, Parimalam Complex,
Mettur Road, Erode.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 18.11.2019 made in M.C.O.P. No. 219 of 2018 on the file of Motor Accident Claims Tribunal, Special District Court, Erode.

For Appellants : Mr.N.Eswaran

For RR2 & 3 : Mr.D.Baskaran

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants seeking enhancement of compensation granted by the Tribunal in the award dated 18.11.2019 made in M.C.O.P. No. 219 of 2018 on the file of Motor Accident Claims Tribunal, Special District Court, Erode.

2.The appellants are claimants in M.C.O.P. No. 219 of 2018 on the file of Motor Accident Claims Tribunal, Special District Court, Erode. The appellants filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Mariyappan, who died in the accident that took place on 22.08.2017.

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 MMV - Eicher Motor Vehicle belonging to the 1st respondent and directed the 2nd & 3rd respondents/Insurance Company to pay a sum of Rs.7,53,810/- 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 deceased was aged 52 years at the time of accident and was earning a sum of Rs.14,000/- per month by working as a lorry driver. The Tribunal has fixed a meagre sum of Rs.9,000/- per month as notional income of the deceased. 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 & 3rd respondents/Insurance Company contended that the Tribunal after considering all the records in proper perspective, rightly 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 learned counsel appearing for the 2nd & 3rd respondents/Insurance Company and perused all the materials available on record.

8.It is the contention of the appellants that the deceased was working as a lorry driver and was earning a sum of

Rs.14,000/- per month at the time of the accident. PW3 / co-worker of the deceased was examined to prove the same. Except oral evidence, the appellants have failed to produce any document to prove the income. In the absence of any material evidence, the Tribunal fixed notional income of the deceased at Rs.9,000/- per month and the same is meagre. The accident is of the year 2017. A sum of Rs.12,000/- is fixed as monthly income of the deceased. Considering the evidence of P.W.1, the Tribunal fixed the age of the deceased as 62 years at the time of accident and therefore the appellants are not entitled to any enhancement towards future prospects. The Tribunal has rightly applied the multiplier '7' and deducted 1/4th towards personal expenses of the deceased. In view of the same, the amount awarded by the Tribunal towards loss of dependency is enhanced to Rs.7,56,000/- (Rs.12,000/- x 12 x 7 x 3/4). The amounts awarded by the Tribunal under different 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 dependency	5,67,000	7,56,000	Enhanced
2.	Funeral expenses	15,000	15,000	Confirmed
3.	Loss of consortium	40,000	40,000	Confirmed
4.	Loss of amenities	15,000	15,000	Confirmed
5.	Loss of love & affection	75,000	75,000	Confirmed
6.	Medical bills	21,810	21,810	Confirmed
7.	Transportation charges	20,000	20,000	Confirmed
	Total	Rs.7,53,810/-	Rs.9,42,810/-	Enhanced by Rs.1,89,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,53,810/- is hereby enhanced to Rs.9,42,810/- together 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. The 2nd & 3rd respondents/Insurance Company are 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 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 by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

mtl

To

1.The Special District Judge,
The Motor Accident Claims Tribunal,
Erode.

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

+1cc to Mr.D.Baskaran, Advocate SR.No.15638

+2cc to Mr.C.Paraneedharan, Advocate SR.No.15946

C.M.A. No. 574 of 2020

AD(CO)
GMY(17/04/2021)

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