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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.M.A.NO.839 OF 2018

1.Jaya
2.Manivannan ... Appellants/Petitioners

Vs

1. Prabhu

2. The New India Assurance Co.Ltd.,
Branch Office, Thiru.Vi.Ka.Street,
Villupuram. ... Respondents/
Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.12.2015, made in M.C.O.P. No.127 of 2013 on the file of the Motor Accident Claims Tribunal (Special District Court), Villupuram.

For Appellants : Mr.U.Chidambaram
for Mr.K.Varadha Kamaraj

For Respondent 1 : Ex-parte

2 : Mr.E.Rajadurai

JUDGMENT

The claimants are the appellants before this Court in this appeal which arises against the judgment and decree of the Motor Accidents Claims Tribunal namely Special District Court, Villupuram for enhancement of the compensation from Rs.4,50,000/- to Rs.10,00,000/-.

2. The appellants are the parents of the deceased who died due to accident that occurred on 14.03.2011. It is contended before the Tribunal that the deceased was travelling in his two wheeler as pillion driver and that the milk van belonged to the first respondent and insured with the second respondent, hit

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against the deceased and that the deceased died on the spot. The father of the deceased was driving the vehicle at the time of accident. The Tribunal found that the accident was caused due to rash and negligent driving of the van belonged to the first respondent. The Tribunal awarded a sum of Rs.4,50,000/- as compensation to the claimants. Aggrieved by the quantum, the parents of the deceased preferred the appeal.

3. Learned counsel appearing for the appellants submitted the notional income of the deceased can be taken at Rs.5,000/- per month and 40% increase can be added towards future prospects. Calculating the pecuniary loss by taking 50% of the income of the deceased, the learned counsel for the appellants submitted that the claimants are entitled to a sum of Rs.6,30,000/-. Towards loss of love and affection and consortium, a sum of Rs.80,000/- is suggested by the learned counsel for the appellants. Both the counsel agreed that a sum of Rs.15,000/- towards funeral expenses and a further sum of Rs.15,000/- towards loss of estate can be awarded to the appellants.

4. Since the dispute is only regarding monthly income, the eligibility of claimants for a sum of Rs.40,000/- towards loss of love and affection and consortium cannot be disputed. Considering the fact that the accident occurred on 14.03.2011, this Court is of the view that a sum which is not less than Rs.5,000/- cannot be taken as notional income of the deceased. Accordingly, this Court accept the contention of the learned counsel for the second respondent that the notional income of the deceased should be fixed at least Rs.5,000/- per month. Adding 40% towards future prospects, the notional monthly income will be Rs.7,000/- per month. Deducting 50%, the claimants are entitled to take Rs.3,500/- as monthly income. Accordingly, the claimants are entitled to a sum of Rs.6,30,000/- (3,500*12*15). As stated earlier the claimants are entitled to a further sum of Rs.1,10,000/- under other conventional heads.

5. As a result, this Court is of the view that the appellants are entitled to a sum of Rs.7,40,000/- as compensation. The award of the Tribunal is enhanced from Rs.4,50,000/- to Rs.7,40,000/-. The second respondent is directed to pay a sum of Rs.7,40,000/- (Rupees Seven Lakh Forty Thousand only) deducting amount already paid, 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 entitled to withdraw the same. The appellants are also entitled to interest at 7.5% per annum. It is brought to the notice of this Court, that the appellants have filed the appeal with a delay of 596 days. This Court allowed the petition to condone delay on condition that the appellants shall forego interest for the

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delayed period. Accordingly, the appellants are not entitled to interest for the delayed period of 596 days.

6. The Civil Miscellaneous Appeal is partly allowed and the award of Motor Accident Claims Tribunal (Special District Court), Villupuram, in M.C.O.P. No.127 of 2013 is modified to the extent indicated above. No costs.

Sd/-
Deputy Registrar(C.S)

//True Copy//

Sub Assistant Registrar

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To

1. The Special District Court), Villupuram.
   (Motor Accident Claims Tribunal).

2. The Section Officer,
   VR Section, High Court,
   Madras-104.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.42859

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GP(CO)
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