

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2445 of 2014

1.Alamelou
2.Thanigaivel
3.Prasanna Sendurvel .. Appellants/Petitioners

Vs.

1.The Manager,
M/s. IVRCS Infrastructure and Project Limited,
M-22/3RT, Vijay Nagar Colony,
Hyderabad.

2.The Divisional Manager,
IFFCO Tokia General Insurance Company Limited,
2nd Floor, No.31, ABOX CONAGRA FOODS,
Lane Opp. DBR Diagnostics,
S.D.Road, Secunderabad,
Andhra Pradesh - 500 003. .. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.03.2014 made in M.C.O.P.No.70 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pondicherry.

For Appellants : Mr.R.Sreedhar
For R1 : No appearance
For R2 : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

J U D G M E N T

The matter is heard through "Video Conferencing".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 20.03.2014 made in M.C.O.P.No.70 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pondicherry.

3.The appellants are the claimants in M.C.O.P.No.70 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pondicherry. They filed the above said claim petition claiming a sum of Rs.60,00,000/- as compensation for the death of one Saravanane, who died in the accident that took place on 09.09.2012.

4.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the car belonging to the 1st respondent and directed the 2nd respondent to pay a sum of Rs.17,65,700/- as compensation to the appellants.

5.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellants contended that the deceased was working as Clerk in Election Department, Pondicherry and was earning a sum of Rs.25,000/- per month. The Tribunal fixed a meagre sum of Rs.13,275/- per month as notional income of the deceased. The deceased was aged 45 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The amounts awarded by the Tribunal towards loss of consortium to the 1st appellant, loss of love and affection, funeral expenses and loss of estate are meagre. The Tribunal failed to award any amount towards attendant charges and loss of amenities and prayed for enhancement of compensation.

7.Though notice has been served on the 1st respondent and their name is printed in the cause list, there is no representation for them either in person or through counsel.

8.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal taking note of the fact that at the time of accident, the deceased was a daily rated clerk, fixed the monthly income of the deceased at Rs.13,275/-, as per Ex.P24/salary slip and without any deduction, awarded a sum of Rs.13,80,600/- towards loss of dependency, which is excessive. Hence, the appellants are not entitled to any enhancement towards future prospects. The amounts awarded by the Tribunal under conventional heads are not meagre and the appellants are not entitled to any amount towards attendant charges and loss of amenities. The total compensation awarded by the Tribunal is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of compensation.

9. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent- Insurance Company and perused the entire materials on record.

10. From the materials available on record, it is seen that it is the contention of the appellants that the deceased was working as a Clerk in Election Department, Pondicherry and was earning a sum of Rs.25,000/- per month. To prove the same, the appellants produced Ex.P24/salary slip of the deceased for the month of August 2012 wherein a sum of Rs.13,268/- is mentioned as the salary of the deceased. It is also seen from the salary slip that the deceased was a daily rated clerk and not a permanent staff. The Tribunal considering Ex.P24/salary slip, fixed monthly income of the deceased at Rs.13,275/- and the same is proper. The appellants have claimed that the deceased was aged 45 years at the time of accident. As per Ex.P17/birth certificate, the age of the deceased was 46 years at the time of accident. Hence, the Tribunal fixed the age of the deceased as 46 years and the same is correct. However, the Tribunal has not granted any enhancement towards future prospects of the deceased. As per the judgment of the Hon'ble Apex Court reported in 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others], the appellants are entitled to 25% enhancement towards future prospects. The multiplier '13' applied by the Tribunal is correct. There are three dependants of the deceased and the Tribunal rightly deducted 1/3rd towards personal expenses. In view of the above, after adding 25% enhancement towards future prospects, the amount awarded by the Tribunal towards loss of dependency is modified to Rs.17,25,776/- {Rs.16,594/- [(Rs.13,275/- + Rs.3,319/- (25% of Rs.13,275/-)) x 12 x 13 x 2/3]}. The amounts awarded by the Tribunal towards loss of consortium to 1st appellant and loss of love and affection to appellants 2 and 3 are meagre and the same are enhanced to Rs.40,000/- each. The amounts awarded by the Tribunal towards funeral expenses and loss of estate are also meagre and hence the same are enhanced to Rs.15,000/- each. The amount awarded by the Tribunal towards medical 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	13,80,600/-	17,25,776/-	Enhanced
2.	Loss of love and affection to appellants 2 and 3	25,000/-	40,000/-	Enhanced

3.	Loss of consortium to 1 st appellant	25,000/-	40,000/-	Enhanced
4.	Funeral expenses	10,000/-	15,000/-	Enhanced
5.	Loss of estate	7,500/-	15,000/-	Enhanced
6.	Medical expenses	3,17,600/-	3,17,600/-	Confirmed
	Total	Rs.17,65,700/-	Rs.21,53,376/- rounded off to Rs.21,53,400/-	Enhanced by Rs.3,87,700/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.17,65,700/- is hereby enhanced to Rs.21,53,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.70 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pondicherry. On such deposit, the appellants are permitted to withdraw the respective share of the award amount, now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Puducherry.

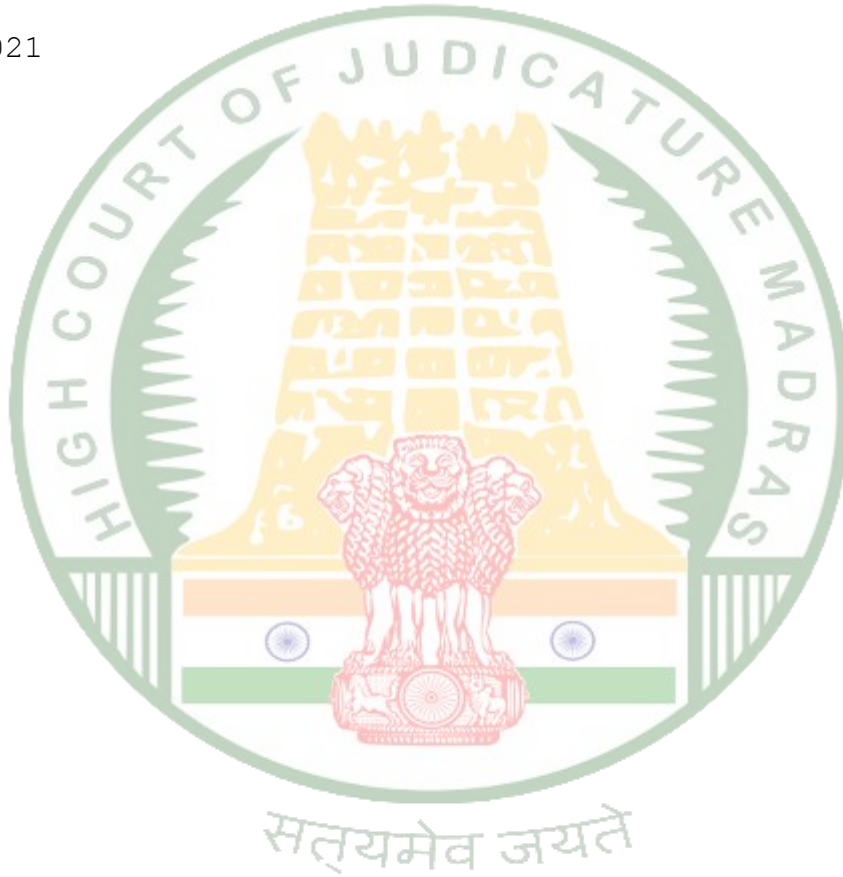
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2.The Section Officer,
VR Section,
High Court, Madras.

+1 cc to Mr.R.Sreedhar Advocate sr41440

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