

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.31 of 2014

1.P.Mangalakshmi @ Lakshmi
2.P.Gomathi

.. Appellants/Claimants

Vs.

1.Saravanan
2.New India Assurance Company Ltd.
No.45, Moore street
Chennai-600 001.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.04.2007 made in M.C.O.P.No.2600 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mrs.A.Subadra
for Mr.V.Velu

For R2 : Mr.R.Neethiperumal

J U D G M E N T

This matter is heard through "Video-Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 27.04.2007 made in M.C.O.P.No.2600 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.2600 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the death of one Dhanasekaran, who died in the accident that took place on 21.06.2006.

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 lorry belonging to the 1st respondent and directed both the 1st respondent as

well as the 2nd respondent/Insurance Company being insurer of the said lorry to jointly and severally pay a sum of Rs.6,50,000/- as compensation to the appellants.

4. Not being satisfied with the amounts 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 working as a Production Manager in Grassor Data Services and was earning a sum of Rs.9,000/- per month. The Tribunal erroneously fixed a sum of Rs.7,500/- per month as notional income of the deceased. The deceased was aged 24 years at the time of accident. The Tribunal failed to grant any enhancement towards future prospects. The appellant examined the proprietor of the company where the deceased was working as Manager as P.W.3 and marked the salary certificate as Ex.P7. The Tribunal failed to consider the evidence of P.W.1 to P.W.3, fixed meagre amount of Rs.7,500/- per month as notional income of the deceased and granted lesser amount as compensation. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal considered Ex.P7/salary certificate and found that no statutory deduction was made and fixed a sum of Rs.7,500/- per month as notional income of the deceased, after statutory deduction and the same is in order. The amounts granted by the Tribunal under different heads are not meagre 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 respondent/Insurance Company and perused the entire materials on record.

8. From the materials on record, it is seen that it is the contention of the appellants that the deceased was working as a Production Manager in Grassor Data Services and was earning a sum of Rs.9,000/- per month. They examined P.W.3, Proprietor of the Company and marked the salary certificate as Ex.P7 to prove the said contention. As per the salary certificate, the gross salary of the deceased was Rs.9,000/- per month. The Tribunal reduced the notional income of the deceased and fixed the same as Rs.7,500/- per month after statutory deduction. The reason given by the Tribunal for reducing the monthly income is not correct and hence, the monthly income of the deceased is fixed as Rs.9,000/- as per Ex.P7/salary certificate marked by the appellant. The deceased was aged 24 years at the time of

accident. The Tribunal has not granted any enhancement towards future prospects. The Tribunal applied multiplier '13' taking into consideration the age of the mother of the deceased, which is not proper. As per the judgment of the Hon'ble Apex Court reported in 2017(2)TNMAC 609 (SC) (National Insurance Company v. Pranay Sethi), the appellants are entitled to 40% enhancement towards future prospects and age of the deceased is basis for applying multiplier. The correct multiplier applicable for the age group of 24 years is '18'. The deceased was a bachelor at the time of accident and the Tribunal erred in deducting $1/3^{\text{rd}}$ instead of $1/2$ towards personal expenses. Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.13,60,800/- (Rs.9,000/- + 3600 [Rs.9,000/- X 40%] X 12 X 18 X $1/2$). The Tribunal has awarded a sum of Rs.20,000/- towards loss of love and affection to the appellants 1 and 2 and Rs.5,000/- towards funeral expenses, which are meagre and hence, the same are hereby enhanced to Rs.40,000/- each and Rs.15,000/- respectively. A sum of Rs.25,000/- awarded by the Tribunal towards loss of expectation of life and loss of estate is excessive and hence, the same is hereby reduced to Rs.15,000/-.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation, more than the amount claimed by the claimants. 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 or reduced
1.	Loss of dependency	6,00,000	13,60,800	Enhanced
2.	Loss of love and affection	20,000	80,000	Enhanced
3.	Loss of expectation of life and loss of estate	25,000	15,000	Reduced
4.	Funeral expenses	5,000	15,000	Enhanced
	Total	6,50,000	14,70,800	Enhanced by Rs.8,20,800 /-

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.6,50,000/- is hereby enhanced to Rs.14,70,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee on the enhanced compensation. The respondents 1 & 2 are jointly and severally directed to deposit the 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 award amount now determined by this Court as per the 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

To

The Chief Judge
Motor Accident Claims Tribunal
Small Causes Court, Chennai.

Copy to : The Section Officer, V.R.Section
High Court, Chennai.

+1cc to Mr.V.Velu, Advocate SR.NO..39893

+1cc to Mr.R.Neethi Perumal, Advocate SR.NO..40321

AKM/31.03.21/ 4P- 5C/

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