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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2097 of 2017

1. Renuka Devi
2. Minor Yokeshwaran
3. Minor Vigneswaran
(Minors rep.by their mother and
next friend, the first appellant herein). ... Appellants

vs.

1. R.Vinothkumar
2. United India Insurance Co. Ltd.,
38, Annasalai, Chennai - 600 002.
3. Gangabai ... Respondents

Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 30.09.2004 and made in M.A.C.T.O.P.No.5128 of 2001 on the file of the learned Additional District Judge -cum -IV Fast Track Court, Chennai.

For Appellants	: Mr.N.S.Sivakumar
For R1	: Exparte
For R2	: Ms.N.Malar
For R3	: Mr.A.Ashokan

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.4,50,000/- towards compensation for the death of one J.Krishnamurthy in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 20.03.2000, at about 03.45 pm, the deceased Krishnamurthy along with his wife and child was travelling in the Bajaj M-80 two-wheeler bearing Registration No.TN-09-V-3989 proceeding from Ilayanallur Village to Chennai on the Ranipet Highway. At that time, the mini lorry bearing Registration No.TN-37-P-9373 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and hit the motorcycle from behind. Due to the said impact, the deceased sustained grievous injuries and he later on, died in the hospital. The wife and



sons of the deceased, being the surviving legal heirs, filed a claim petition before the Tribunal, seeking compensation of Rs.7,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.4,50,000/- with interest at the rate of 9% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum of compensation so awarded, the appellants are before this Court with the present appeal seeking enhancement of compensation.

3.The learned counsel for the appellants has submitted that the Tribunal has erred in awarding a meagre sum of Rs.4,50,000/- as against the claim of Rs.7,00,000/- made by the appellants / claimants. The learned counsel further submitted that when the deceased was earning Rs.4,500/- as Car driver, the Tribunal has erred in taking his income only at Rs.3000/- per month. It is also submitted that the amounts awarded other heads are meagre and hence, the compensation awarded by the Tribunal needs interference at the hands of this Court by way of enhancement.

4.Per contra, the learned counsel for the second respondent/ Insurance Company has submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The wife of the deceased was examined as P.W.1, who deposed in her evidence that the deceased was aged about 32 years and was earning a sum of Rs.4,500/- per month as car/van driver. To prove the avocation and income of the deceased, the appellants have not filed any documents. In the absence of any material evidence, the Tribunal fixed a sum of Rs.3,000/- per month as the notional income of the deceased, deducted 1/3rd of the amount towards personal expenses, adopted 17 multiplier and awarded a sum of Rs.4,08,000/- towards loss of income. The accident occurred in the year 2000. Taking note of the year of accident and based on the evidence of PW1, this Court is of the view that fixing a sum of Rs.4,500/- as the monthly income of the deceased, would be proper. The multiplier of 17 adopted by the Tribunal is the correct multiplier. Thus, if a sum of Rs.4,500/- is fixed as notional income per month, 1/3rd is deducted from the resultant amount and by adopting 17 multiplier, the compensation towards Loss of Income works out to Rs.6,12,000/- (Rs.4,500 x 12 x 17 x 2/3). Accordingly, the compensation awarded by the Tribunal towards Loss of Income stands modified to Rs.6,12,000/-. Further, this Court is of the considered view that the amounts awarded towards funeral



expenses, Loss of consortium, Loss of love and affection and mental agony are reasonable and justifiable and hence the same are confirmed.

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7.The details of the modified compensation are as follows:

HEADS	AMOUNT
	(Rs.)
Loss of Income	6,12,000/-
Loss of Consortium	10,000/-
Loss of love and affection	10,000/-
Funeral Expenses	5,000/-
Mental agony	17,000/-

TOTAL....	6,54,000/-
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8.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,50,000/- is hereby enhanced to Rs.6,54,000/-. It is made clear that only for the amount of Rs.4,50,000/- awarded by the Tribunal, the interest rate will be 9% per annum from the date of petition. For the enhanced amount of Rs.2,04,000/-, the interest rate will be 7.5% per annum from the date of petition. It is made clear that the claimants are not entitled for interest for the period of delay in filing this appeal, in respect of the enhanced amount of compensation. No costs.

9.The respondents 1 and 2 are jointly and severally directed to deposit the modified amount of compensation, as ordered above, along with interest and costs, after deducting the amount if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. During the time of filing the claim petition, ie., in the year 2001, the appellants 2 and 3 were 3 years and 6 months old, respectively. Now, they would have attained majority. Hence, on such deposit being made, the appellants are permitted to withdraw their respective shares as per the proportion apportioned by the Tribunal, on making proper application. It is also made clear that the appellants / claimants have to pay the appropriate Court fee in order to receive the awarded amount.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

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To

1.The learned Additional District Judge
cum IV Fast Track Court, Chennai.

Copy to:

2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to M/s.I.Malar, Advocate, S.R.No.32322

+1cc to Mr.N.S.Sivakumar, Advocate, S.R.No.32074

C.M.A.No.2097 of 2017

VSN II (CO)
CB(17/08/2021)