

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2438 of 2017

1.K.Renganathan

2.R.Lakshmanan Raj

(2nd appellant declared as major and his father and next friend K.Renganathan discharged from the guardianship vide order of Court dated 17.03.2020 made in C.M.P.Nos.23620 & 23623 of 2018 in C.M.A.No.2438 of 2017)

3.R.Mani Megalai ... Appellants/Petitioner

Vs.

1.R.Hari

(set exparte in the Trial Court)

2.ICICI Lombard Gl. Insurance Co.Ltd.,
Chotabhai Towers,
No.140, Nungambakkam High Road,
Chennai -600 006.

Now functioning at
ICICI Lombard Gl.Insurance Co.,Ltd.,
Harihant Plaza, 1st Floor,
No.83/84, Walltax Road,
Chennai - 600 003.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.A.C.T.O.P.No.3447 of 2014, dated 07.04.2017 on the file of the Chief Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellants : Mrs.P.T.Saleem Fathima

For Respondents: R1 Exparte
Mrs.R.Sreevidhya for R2

J U D G M E N T

The appeal is preferred by the claimants seeking enhancement of compensation.

2.The claim petition was filed by the legal heirs of the deceased victim and the accident occurred on 03.06.2014 at about 8.20 hours at Thiruneermalai Road, Near Renganatha Perummal Koil, Chennai. The deceased was a rider in the motor cycle and on account of the accident he sustained head injury and died in the hospital on 06.06.2014. The claim petition was filed seeking compensation of Rs.19,00,000/-. The Tribunal adjudicated the issues, the factum regarding the accident was established and the policy coverage was also established. Thus, the Tribunal arrived at a conclusion that the Insurance Company is liable to pay compensation to the claimants.

3. As far as the quantum of compensation is concerned, the learned counsel appearing on behalf of the appellants mainly contended that the deceased was working as a Production Assistant in Phoneix Company, Thirumudivakkam, Chennai. As per the claim petition, he was drawing a salary of Rs.8,500/- per month + Batta and allowances.

4.The Tribunal adjudicated the issues and arrived at a conclusion that the accident was established. The 2nd respondent Insurance Company also held liable to pay compensation, as the coverage of policy was also established before the Tribunal. The learned counsel for the appellant mainly contended that the monthly income fixed by the Tribunal is inadequate and the income is to be enhanced.

5. This Court is of the considered opinion that even in the claim petition, the monthly income of the petitioner has been stated as Rs.8,500/- + Batta and allowances. The allowances cannot be a taken part of the salary, therefore, the salary stated in the claim petition is a sum of Rs.8,500/-. The deceased was aged about 23 years at the time of death and he would have joined in the Private Company few months back. Taking note of all these factors the salary of Rs.8,500/- has been taking into consideration for the purpose of calculating the quantum of compensation. Accordingly, this Court is inclined to enhance the compensation as here under :

Sl.No.	Heads	Amount in Rs.
1.	Loss of Income (Rs.5950x12x18)	12,85,200
2.	Love and affection	80,000
3.	Loss of estate	15,000
4.	Funeral Expenses	15,000
	Total	13,95,200

6.The 2nd respondent Insurance Company is directed to deposit the enhanced compensation along with interest at the rate of 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount by filing an appropriate application and as per the apportionment granted by the Tribunal and the payments have to be made through R.T.Gs.

7. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to Ms.R.Sreevidhya, Advocate Sr.24039
+1cc to Mr.Swamikannu, Advocate Sr.23727

C.M.A.No.2438 of 2017

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srg 04/01/2021