

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A. No. 3056 of 2017

1. K.Rajeswari
2. K.Karthika Pani ... Appellants/Petitioners

Vs.

1. D.Suresh Kumar
2. The United India Insurance Company Limited
No.48, Arcot Road
Saligramam
Chennai - 600 093. ... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No. 394 of 2016 dated 17.06.2017 on the file of the Motor Accident Claims Tribunal, Poonamallee, III Additional District Court, Tiruvallur at Poonamallee.

For Appellant : Mr. F.Terry Chellaraja

For Respondents: R1- Exparte
Mr. A.Dhiviyanathan (For R2)

J U D G M E N T

The appeal on hand is preferred against the judgment and decree dated 17.06.2017 passed in M.C.O.P. No. 394 of 2016.

2. The brief facts as narrated in the claim petition are that:

On 02.06.2016 at about 22.40 hours from west to east on C.T.H. Road, Thirumullaivoyal Opposite to Telephone exchange when the driver of the motor cycle drove the vehicle in a rash and negligent manner endangering public safety and fell down on the road with his bike and thereby caused the accident. Due to this, the deceased sustained severe head injuries and was admitted in Apollo Hospital, Ayanambakkam for treatment and in spite of treatment he died on 03.06.2016. The claimants are the

parents of the deceased. The deceased was aged about 28 years at the time of accident and he was a bachelor. The claim petition was filed seeking a compensation of Rs.40,00,000/-. The Tribunal awarded a sum of Rs.25,91,687/-.

3. The learned counsel appearing on behalf of the appellants mainly contended that the Tribunal has not calculated the income of the deceased for the purpose of arriving a fair compensation by applying the multiplier. The learned counsel appearing for the appellant is of the opinion that the gross monthly salary as per Exhibit P15-salary certificate of the deceased was a sum of Rs.19,273/-. The net salary per month after deduction was a sum of Rs.16,625/-. Therefore, the gross income is to be calculated for one year, which is a sum of Rs.2,31,276/-. The future prospects 50% is to be added and a sum of Rs.1,15,638/- is to be added. Thus, the total income per year is Rs.3,46,914/-. During the relevant point of time when the deceased died he was liable to pay the income tax(10%) of Rs.96,914/- and by deducting the tax amount of Rs.9,691/-, the total income per year is to be fixed as Rs.3,37,223/-. The deduction of ½ is to be effected and thus, the amount arrived is Rs.1,68,612/-, i.e. to be taken into consideration for the purpose of applying multiplier-17. Accordingly, the claimants are entitled for the compensation of Rs.28,66,404/-. However, the Tribunal has not granted compensation by applying the said procedures properly. Contrarily, the Tribunal awarded a sum of Rs.24,56,687/- towards loss of dependency.

4. This Court is of the considered opinion that the Tribunal has committed an error in calculating the monthly income for the purpose of applying multiplier. The said procedures are not followed by the Tribunal for arriving a fair compensation under the head of loss of dependency. Thus, the same deserves to be reviewed. Accordingly, the compensation of Rs.24,56,687/- granted by the Tribunal under the head of loss of dependency is enhanced to Rs.28,66,404/-. The remaining compensations are confirmed. Thus, the claimants are entitled for the enhanced compensation. Accordingly, the total compensation payable to the claimants is fixed at Rs.30,01,404/-. The second respondent /insurance company is directed to deposit the entire compensation including enhanced compensation along with interest at 7.5%, after deducting the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made only through RTGS. The claimants are liable to pay court fee for the enhanced compensation amount.

5. Accordingly, the judgment and decree dated 17.06.2017 passed in M.C.O.P. No. 394 of 2016 is quashed and accordingly, the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

may

To

1.The III Additional District Judge
Motor Accidents Claims Tribunal
Thiruvallur at Poonamallee.

2.The Sub Assistant Registrar
A.E.Section
High Court, Madras.

+1cc to M/s.M.Malar, Advocate Sr.22284

+1cc to M/s.A.Dhiraviyanathan, Advocate Sr.22645

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