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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. No.3083 of 2017

1. Ananthi
2. Aruljothi
3. Kannadossan

... Appellants/Petitioners

Vs

1. Srinivasan
2. The New India Assurance Company Ltd.,
Sethu Krishna Trade Centre, Second Floor,
D.No.133/31-1, Trichy Main Road,
Gugai, Salem District.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.07.2017 made in M.C.O.P. No.443 of 2016, on the file of Motor Accidents Claim Tribunal / Principal District Court at Namakkal.

For Appellants : Mr. Ma.P.Thangavel

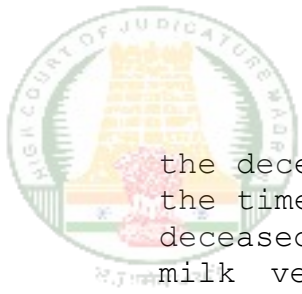
For Respondent 1 : No appearance

2 : Mrs. S.R.Sumathy

JUDGMENT

This appeal is preferred by the appellants / claimants aggrieved by the quantum of compensation in M.C.O.P. No.443 of 2016 on the file of Motor Accident Claims Tribunal / Principal District Court, Namakkal.

2. The husband of the first appellant is the victim of accident and the accident happened on 12.01.2016. It is seen that



the deceased was aged 47 years and doing milk vending business at the time of accident. Even though the appellants pleaded that the deceased was earning a monthly income of Rs.20,000/- by doing milk vending business, the Tribunal took the income of the deceased as Rs.6,000/- per month and after deducting $\frac{1}{3}$ rd of the income for personal expenses and taking the multiplier as 13, arrived at a sum of Rs.6,24,000/-. The future prospects of the deceased was not taken into account by the Tribunal. Finally, a sum of Rs.6,36,000/- was awarded as compensation by adding a further sum of Rs.12,000/- under other heads.

3. Though there is no direct evidence to fix the income of the deceased at the time of accident, considering the age of the deceased and the fact that the deceased was doing milk vending business as his source of income to maintain his family consisting of wife and two children, this Court is inclined to fix the income of deceased at Rs.12,000/- per month from the date of accident. It is also to be noted that the Aavin, is making a profit of Rs.10/- per litre by procuring milk from farmers. The deceased was aged 47 years at the time of accident and therefore, he is expected to sell at least 50 litres per day. After deducting a sum of Rs.100/- towards incidental expenses, the income can be easily arrived at Rs.400/- per day for a person who choose milk vending business the only source for his livelihood and to support his family.

4. The future prospects can be given by an enhancement of 25% considering the age of the deceased at the time of accident. Having regard to the size of the family and the fact that one of the appellant namely the daughter of the deceased who has attained the age of marriage, $\frac{1}{3}$ rd deduction will be appropriate. The appellants are also entitled to a sum of Rs.80,000/- towards loss of consortium and loss of love and affection. Again the appellants are entitled to a sum of Rs.15,000/- towards funeral expenses and other incidental expenses. Therefore, the appellants are entitled to a sum of Rs.16,55,000/- as compensation.

5. Accordingly, the Civil Miscellaneous Appeal is allowed and the award of Motor Vehicle Accident Claims Tribunal / Principal District Judge, Namakkal, in M.C.O.P. No.443 of 2016, is modified by holding that the appellants are entitled to a total sum of Rs.16,55,000/- (Rupees Sixteen Lakh Fifty Five Thousand Only) with interest at 7.5% per annum from the date of claim petition till the date of realisation. The appellants / claimants are entitled to the award in equal proportion. The appellants are directed to pay the required Court fee before withdrawing the amount as per the order of this Court. Since it



stated that the amount as per the award of Tribunal has been deposited, the respondents are directed to deposit the balance amount along with interest as directed by this order within a period of twelve weeks from the date of receipt of a copy of this order.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

Sub Assistant Registrar

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To

The Motor Accidents Claim Tribunal /
Principal District Court,
Namakkal.

C.M.A. No.3083 of 2017

CA (CO)
CB (07/12/2021)