

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.4835 of 2019

1.Sathiyabama
2.Moulidharan
3.Dharanidharan

.. Appellants/claimants

Vs.

1.Duraisamy
2.National Insurance Company Limited,
2nd Floor, 81-D, Chetty Street,
Opp: Bus Stand, Tiruchengode Taluk,
Namakkal District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.09.2019 made in M.C.O.P.No.137 of 2015 on the file of Motor Accidents Claims Tribunal, Sub Court, Tiruchengode.

For Appellants : Mr.N.Eswaran
for Mr.C.Paraneedharan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation of the award dated 05.09.2019 made in M.C.O.P.No.137 of 2015 on the file of Motor Accidents Claims Tribunal, Sub Court, Tiruchengode.

2.The appellants are the claimants in M.C.O.P.No.137 of 2015 on the file of Motor Accidents Claims Tribunal, Sub Court, Tiruchengode. They filed the above said claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of one Mohan, who died in the accident that took place on 02.05.2015.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent driving by the driver of the lorry bearing Registration No. TN 28 AJ 6744 belonging to the 1st respondent and considering the evidence of P.W.2 and accepting the

contention of the 2nd respondent-Insurance Company, exonerated the 2nd respondent-Insurance Company and directed the 1st respondent/owner of the lorry to pay a sum of Rs.32,06,536/- 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 Tribunal erred in fixing meagre sum of Rs.23,200/- as monthly income of the deceased. The accident occurred in the year 2015 and the deceased was working as a Conductor in TNSCTC, (Tamilnadu State Transport Corporation, Coimbatore Division-II Limited, Erode), Pallipalayam Branch and he was earning a sum of Rs.34,450/- per month. The appellants are dependants of the deceased. The Tribunal has not awarded any amounts towards loss of love and affection. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

6. Heard the learned counsel appearing for the appellants and perused the entire materials on record.

7. From the materials available on record, it is seen that the appellants have made averments in the claim petition that the deceased was working as a conductor and was earning a sum of Rs.23,000/- per month. They filed and marked salary certificate of the deceased as Ex.P6, showing that the deceased was earning a sum of Rs.23,263/-. The Tribunal without accepting the contention of the appellants in the claim petition and Ex.P6/salary certificate, fixed monthly income of the deceased at Rs.23,200/-. The appellants have not produced any material evidence to show that the deceased was earning a sum of Rs.34,450/- per month. Hence, the contention of the appellants in the present appeal is not acceptable. The Tribunal taking into account the age of the deceased, granted 30% enhancement towards future prospects and applied multiplier '13' and awarded a sum of Rs.31,36,536/- towards loss of dependency and the same is in order. The Tribunal following the judgment of the Hon'ble Apex Court reported in 2017 ACJ 2700 / 2017(2)TNMAC 609 (SC), [National Ins. Co. Vs. Pranay Sethi], awarded a sum of Rs.70,000/- under conventional heads, which is proper. The Tribunal considering the entire materials on record has awarded a total sum of Rs.32,06,536/- as compensation to the appellants, which is just and reasonable and the same does not warrant any interference by this Court.

8. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.32,06,536/- awarded by the Tribunal as compensation to the appellants, along with interest and costs is hereby confirmed. The first respondent is directed to deposit the award amount 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 to the credit of M.C.O.P.No.137 of 2015 on the file of Motor Accidents Claims Tribunal, Sub Court, Tiruchengode. On such deposit, the appellants are permitted to withdraw their respective share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

Copy to

The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.C.Paraneedharan Advocate sr2067

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