



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.A. No. 441 of 2017

S.Thilakavathy ... Appellant/1st Petitioner

Versus

1.Periyasamy

2.The Branch Manager,
National Insurance Co. Ltd.,
Srinivasan Market Complex,
No.1974, Cinema Road,
Dhoddabelapur - 561 203.

... Respondents 1 & 2/ Respondents 1 & 2

3.Kullammal. .. 3rd Respondent/2nd Petitioner

T.Karunanithi (Died)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2006, made in M.C.O.P, No.1083 of 2004 on the file of the Motor Accident Claims Tribunal, Dharmapuri District at Krishnagiri (First Additional District Court), in so far as against the disallowed portion of the claim of the appellants.

For Appellant	:	Mr. K.Prasanna for Mukund R.Pandian
For Respondents : 1	:	Notice dispensed with
2	:	Mr. J.Chandran

JUDGMENT

The first claimant in M.C.O.P. No.1083 of 2004 is the appellant seeking enhancement of the compensation.

2. The deceased was the husband of the appellant. The first appellant's husband by name D.Palani died on 06.06.2004 as a result of accident that occurred on same day while the deceased was traveling in his two wheeler from his residence to the work place. The deceased was employed as a Junior Muzdoor in a dairy farm. He produced his salary certificate indicating that he was



earning a sum of Rs.2,947/-. Since the Tribunal came to the conclusion that the accident was caused due to the rash and negligent driving of the vehicle which belonged to the first respondent and insured with second respondent, the liability was fixed on the respondents. As against the claim of Rs.15,00,000/-, the Tribunal awarded a sum of Rs.6,13,689/- as compensation towards loss of income and other conventional heads. The Tribunal has accepted a sum of Rs.2,947/- as income of the deceased. After adding 1/3 of the income towards future prospects, a sum of Rs.3,929/- was taken as monthly income of the deceased. Since the age of the deceased was accepted as 35, 16 multiplier was taken. Allowing 1/4th deduction, the Tribunal has determined total compensation as Rs.6,13,689/-.

3. The accident occurred in the year 2004 and the deceased was employed as Junior Mazdoor in a dairy farm. It is also stated by the appellant that the deceased was also doing milk vending business as a part time work. Having regard to the nature of the evidence and the deposition of witnesses examined on behalf of the claimants, this Court is inclined to accept the sum of Rs.4,000/- as monthly income of the deceased at the time of accident. Adding 40% towards future prospects, the appellant is entitled to compensation by fixing the monthly income at Rs.5,600/- per month. Deducting 1/4th from the income, a sum of Rs.4,200/- can be taken for determining the compensation payable to the appellant. The amount towards loss of income will be Rs.8,06,400/-. This Court relying upon the judgment of Hon'ble Supreme Court in the Case of National Insurance Co. Ltd., Vs. Pranay Sethi reported in (2017) 16 SCC 680 is inclined to award further a sum of Rs.74,000/- under all other conventional heads. As a result the claimants are entitled to a sum of Rs.8,80,400/-. Accordingly, the award of the Tribunal is modified by enhancing the amount of compensation from Rs.6,13,689/- to Rs.8,80,400/-. The second respondent is directed to deposit a sum of Rs.8,80,400/- (Rupees Eight Lakh Eighty Thousand Four Hundred Only), along with interest within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are entitled to withdraw the same. The claimants are entitled to interest at the rate of 7.5% alone instead of 9% as directed by the Trial Court. The claimants are entitled to apportionment in the same proportion as adopted by the Tribunal. The claimants are directed to pay appropriate Court fee for the enhanced amount before withdrawing the amount as per the order of this Court.

4. Accordingly, the Civil Miscellaneous Appeal is allowed and the judgment and decree dated 27.02.2006, made in M.C.O.P, No.1083 of 2004 on the file of the Motor Accident Claims Tribunal, Dharmapuri District at Krishnagiri (First Additional



District Court), is modified to the extent indicated above. No costs.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

1. The Motor Accident Claims Tribunal,
Dharmapuri District,
Krishnagiri. (First Additional District Court)
 - 2.The Section Officer, VR Section, High Court, Madras.
- +lcc to Mr.Mukund R.Pandiyar, Advocate, S.R.No.37445

C.M.A. No.441 of 2017

RSI (CO)
B.VC (11/10/2021)