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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.M.A. No.535 of 2017

- | | |
|--|----------------------------|
| 1. Susheela | |
| 2. Kalaiselvi | |
| 3. Veeramanikandan | ...Appellants/Petitioners |
| Versus | |
| 1. Sathish | |
| 2. ICICI Lombard General Insurance Co. Ltd.,
No.140, Chottabai Center, II Floor,
Nungambakkam High Road,
Chennai. | ...Respondents/Respondents |

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.04.2015 made in M.C.O.P. No.682 of 2013 on the file of Motor Accident Claims Tribunal, (Small Causes Court) Chennai.

For Appellants : Mr.U.Chidambaram
for Varada Kamaraj

For Respondent : 1 : Ex-parte
2 : Mr.C.Elamurugan

JUDGMENT

This appeal is preferred by the claimants for enhancement of the award of Motor Accident Claims Tribunal in M.C.O.P. No.682 of 2013 on the file of Motor Accident Claims Tribunal (Small Causes Court), Chennai.

2. The husband of the first appellant died after sustaining multiple injuries and fractures as a result of accident that occurred on 19.06.2012. As against the claim for a sum of Rs.10,00,000/- as compensation, the Tribunal awarded a sum of Rs.7,65,620/- for the claimants. The appellants contended that the deceased namely the husband of the first appellant was employed as a watchman and was earning a sum of Rs.12,000/- per month. It is not in dispute that the victim was 45 years of age at the time of accident. The Tribunal fixed the notional income at Rs.5,000/- per month as against the claim of Rs.12,000/- per



month. It is also admitted that the no evidence was let in to prove the income of the deceased at the time of accident. Since the accident took place in the year 2012, this Court is of the view that a sum of Rs.9,000/- can be taken as notional income of the deceased at the time of accident. Since 30% additional can be added towards future prospects, the deceased will be drawing the salary of Rs.11,700/- per month. It is permissible for deduction of 1/3rd towards personal expenses of the deceased. Hence, the monthly income of the deceased can be arrived at Rs.7,800/-. The Tribunal has rightly adopted the multiplier as 14. Hence, the claimants are entitled to a compensation of a sum of Rs.13,10,400/- towards loss of income. Since the lower Court has awarded a sum of Rs.1,05,000/- under other heads, this Court has no reason to interfere with the quantum under other heads.

3. As a result, the appellants / claimants are entitled to a sum of Rs.14,15,400/- in all as compensation. The second respondent is directed to pay a sum of Rs.14,15,400/- (Rupees Fourteen Lakhs Fifteen Thousand Four Hundred only) along with interest at the rate of 7.5% per annum from the date of petition till the date of realization, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are entitled to withdraw the same. The appellants are also liable to pay additional Court fee. Further, it is brought to the notice of this Court that the appeal was filed with delay of 339 days and that the petition to condone the delay was also allowed on condition that the appellants are not entitled to interest for the period of delay. Hence, the claimants are not entitled to interest for the period of 339 days. The appellants are entitled to apportionment in the same proportion as adopted by the Tribunal. Since it is admitted that the vehicle was driven by the owner without valid licence, the Tribunal has directed to pay and recovery and that portion of the judgment is not interfered with or modified.

4. The Civil Miscellaneous Appeal is partly allowed and the award of Motor Accident Claims Tribunal, (Chief Small Causes Court) Chennai, in M.C.O.P.No.682 of 2013, is modified to the extent indicated above. No costs.

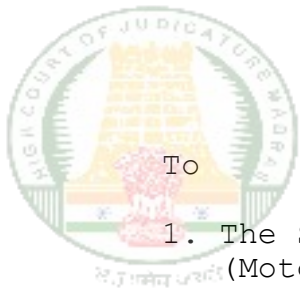
Sd/-

Deputy Registrar (P&S)

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Sub Assistant Registrar

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To

1. The Small Causes Court, Chennai.
(Motor Accident Claims Tribunal)

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

+lcc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.41879

C.M.A.No.535 of 2017

AP (CO)
RGA (11/11/2021)