



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2648 of 2021

1.Sivagami
2.Chinnathambi
3.Sangeetha

...Appellants/Claimants

Vs.

1. S.Karthick

2. Branch Manager,
The New India Assurance Company Limited,
Door No.96,
Bharathiyar Road,
Sathur - 626 203.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 18.02.2020 in MCOP No.233 of 2019 passed by the Motor Accident Claims Tribunal/Special District Judge, Dharmapuri.

For Appellants : Mr.A.Ilayaperumal

For Respondents : Ms.Salomi for
Mr.C.Ramachandran (for R2)

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

The appellants challenge the award passed by the Motor Accident Claims Tribunal, Special District Judge, Dharmapurai in MCOP No.233 of 2020, dated 18.02.2020.

2.The claimants have come up with this appeal seeking enhancement of compensation. This is the case of the fatal accident. The case of the claimants is that on 11.07.2018 at 01.00 hours, the deceased Sekar went to the vacant land on the western side of Bagalahalli to attend nature's call. When he



waited on the road side in the Salem-Dharmapuri National Highway, a Maruti Omni Ambulance van bearing Reg.No.TN-70-6486 belonging to the first respondent herein and insured with the second respondent herein came in a rash and negligent manner and dashed against the deceased. In the impact, the deceased sustained head injuries and he was rushed to Government Dharmapuri Medical College Hospital in an ambulance, where he took first-aid. Thereafter, he was referred to Government Mohan Kumaramangalam Medical College Hospital, Salem and treated as inpatient. But he died at 09.20 a.m. The first and second claimants are the parents and third claimant is the sister of the deceased. Though they claimed Rs.2,00,00,000/- as compensation, the Tribunal has awarded Rs.42,98,010/- together with interest at 7.5% per annum, under the following heads:-

Heads	Rs.
Compensation for pecuniary loss	41,48,010/-
Loss of consortium (40000 x 3)	1,20,000/-
Loss of Estate	15,000/-
For Funeral Expenses	15,000/-
Total	42,98,010/-

3.The learned counsel for the appellants would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation. He would further contend that at the time of accident, the deceased was 38 years and hale and healthy. He was the sole breadwinner of his family. He was Field Assistant in the Tamil Nadu Electricity Board, and earned Rs.34,137/- per month. Apart from that, he was doing agriculture work in his family property and earned additional income of Rs.15,000/- per month. Though the said additional income was established through Exs.P.18 and 19, the Tribunal rejected the same, since the said documents stand in the name of the father of the deceased. It is further stated that the age of the father of the deceased was 63 years and he was not doing the agricultural work and therefore, the same has been done by the deceased. Hence, the Tribunal ought to have taken the said income to the deceased. Therefore, the appellants seek for enhancement of compensation.

4.The learned counsel appearing for the second respondent/Insurance Company would submit that challenging the same award, the Insurance Company has already filed an appeal in CMA No.690 of 2021 to reduce the compensation. But this Court, by Judgment dated 03.09.2021, dismissed the said appeal.

5.This Court carefully considered the submission of the



learned counsel appearing for the appellants/claimants and the learned counsel appearing for the second respondent/Insurance Company and perused the materials available on record.

6.It is not in dispute that the deceased died in an road accident that had taken place on 11.07.2018. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the Maruti Omni Ambulance has become final and hence, it need not be adverted to in the appeal.

7.Though the learned counsel appearing for the appellants/claimants has contended that the award is meager and sought enhancement, on perusal of the records, we find that the Tribunal, on proper appreciation of evidence of last month pay slip of deceased (Ex.P.22), has fixed the monthly income and adopting correct multiplier awarded a just and reasonable compensation. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

8.For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skn

To

1. The Special District Judge, Dharmapuri
The Motor Accident Claims Tribunal,

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

+1cc to M/s.A.Ilayaperumal, Advocate, S.R.No.48113

+1cc to Mr.C.Ramesh Babu, Advocate, S.R.No.48014

C.M.A.No.2648 of 2021

EV(CO)
RGA(03/12/2021)