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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CIVIL MISCELLANEOUS APPEAL NO.1593 OF 2010

Chandrasekaran

...Appellant / 2nd Respondent

..Vs..

1.Kuppan

2.Alagammal

3.Minor Kumar

4.Minor Karthikeyan

...Respondents 1 to 4 / Petitioners

5.Prabhu

...5th Respondent / 1st Respondent

(Minor respondents 3 & 4 are represented by their father 1st respondent as natural guardian/next friend)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 22.02.2010 made in M.C.O.P.No.940 of 2005 on the file of Principal District Judge, (Motor Accidents Claims Tribunal) Villupuram.

For Appellant	:	Mr.R.Ganesh
For Respondents 1 & 2	:	No appearance
For Respondents 3 & 4	:	Minors
For Respondent 5	:	Notice served

JUDGMENT

Brief facts of the claimants' case is as follows:

On 26.07.2006 at about 4.00 a.m., the deceased Kumaresan was travelling in the tractor belonging to the appellant, bearing registration No.TCE 5437 from V.Pudhupalayam to Piyoor, when the tractor was coming near Arunavadi River Bed, the driver of the tractor drove the vehicle in a rash and negligent manner, as a result, the deceased Kumaresan was thrown out from the tractor and he died on the spot. The legal heirs of the deceased have filed a claim petition claiming Rs.5,00,000/- as compensation from the owner of the vehicle, appellant herein.

2. On the side of the claimants, P.W.1 & 2 were examined and Ex.P1 to P6 were marked. On the side of the respondent, R.W.1 & 2 were examined and Ex.R1 and R2 were marked.



3. Tribunal, based on the oral and documentary evidence adduced by both sides, has recorded a finding that the appellant and the 5th respondent being the Insurer and driver of the vehicle are jointly and severally liable to pay compensation to the claimants and awarded a sum of Rs.3,94,000/- as compensation to the claimants along with interest at the rate of 7.5% per annum from the date of claim petition till realization. The total compensation awarded by the tribunal under various heads are as follows:

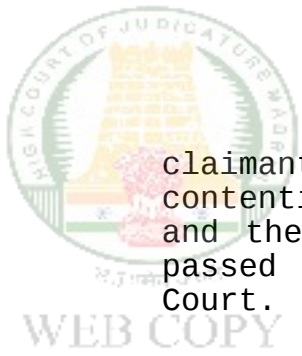
Heads	Compensation awarded by the tribunal in Rs.
Loss of income 2000 x 12 x 16	3,84,000/-
Pain & Suffering	5,000/-
Funeral expenses	5,000/-
Total	3,94,000/-

4. Challenging the said award, owner of the vehicle has preferred the instant appeal against the quantum of compensation awarded by the tribunal.

5. Heard the learned counsel appearing for the appellant and perused the materials available on record.

6. Based on the oral and documentary evidence, the tribunal has awarded Rs.3,94,000/- as compensation to the claimant along with interest at the rate of 7.5% p.a. from the date of petition till realization. According to the counsel appearing for the appellant/owner of the vehicle, at the time of accident, the deceased was a bachelor and therefore, the tribunal has deducted 1/3rd of the monthly income fixed by the tribunal towards personal income of the deceased and adopted 16 multiplier. i.e. Rs.3000/- - Rs.1000/- = Rs.2000/- x 12 x 16 = Rs.3,84,000/-. According to the counsel appearing for the appellant, as per the decision of the Hon'ble Supreme Court, 50% of the income should be deducted towards personal expenses. Therefore, the finding of the tribunal cannot be sustained. That apart, the tribunal has awarded interest at the rate of 9% p.a. to the claimant.

7. On perusal of the award passed by the tribunal disclose that the tribunal elaborately discussed the issues and awarded a sum of Rs.3,94,000/- as compensation to the claimants for the death of their son in the accident. Tribunal considering the age of the deceased, has fixed small amount of Rs.3,000/- as monthly income of the deceased and also rightly adopted 16 multiplier which comes to Rs.3,84,000/-. Therefore, the tribunal has awarded just and reasonable compensation to the



claimant. Such view of the matter, there is no force in the contention of the learned counsel appearing for the appellant and the same is liable to be rejected. Therefore, the award passed by the tribunal does not require interference by this Court.

8. The appellant is directed to deposit the entire award amount before the tribunal along with interest at the rate of 7.5% p.a. within a period of 12 weeks from the date of receipt of copy of the judgment, after deducting the amount if any, already deposited before the tribunal.

9. Consequently, the appeal stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

vaan

To

The Principal District Judge,
(Motor Accidents Claims Tribunal),
Villupuram

Copy To

The Section Officer,
V.R.Section,
Madras High Court, Chennai-104.

Civil Miscellaneous Appeal No.1593 of 2010

AJS(CO)
RVM(15/09/2021)