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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.1736 OF 2016

1. P.Malliga
2. P.Pitchai
3. M.Vijayabama

... Appellants/Petitioners

Versus

1. M.Indramoorthy
(R1 was set exparte
in the trial Court)

2. The United India Insurance Co. Ltd.,
No.1170, Muthia Complex,
Mettur Road, Erode.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 14.08.2015 made in M.C.O.P.No.307 of 2014 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Erode.

For Appellants : Ms.V.Suguna

For Respondents : Ms.I.Malar for R2

R1 - Exparte

JUDGMENT

(Heard Video Conference)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 14.08.2015 passed by the Motor Accidents Claims Tribunal, Special District Judge, Erode in M.C.O.P.No.307 of 2014.



3. The details of the compensation awarded by the Tribunal under the impugned award to the appellants/claimants are as follows :-

4. Heard Ms.V.Suguna, learned counsel for the appellants/claimants and Mr.I.Malar, learned counsel for the second respondent. The first respondent remained ex-parte both before the Tribunal and before this Court.

6. The appellants are the dependants of the deceased P.Karthikeyan, who died on 09.10.2013 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The first and second appellants are the parents of the deceased and the 3rd appellant is the sister of the deceased.

8. In the claim petition, the appellants/claimants have pleaded that the deceased was working at Samsung Company earning Rs.20,000/-p.m., at the time of the accident. Before the Tribunal, the appellants/claimants have filed the salary



certificate of the deceased, dated 24.07.2015, which has been marked as Ex.P23. However, the Tribunal disbelieved the salary certificate on the ground that no supporting documents were filed like bank pass book, appointment order and wage disbursement register. Therefore, the Tribunal fixed the monthly income of the deceased on notional basis and fixed the same at Rs.6,000/-p.m. The accident happened in the year 2013. This Court is of the considered view that the assessment of the notional monthly income of the deceased for an accident of the year 2013 at Rs.6,000/- is too low. If the year of the accident and the avocation of the deceased was taken into consideration, the Tribunal ought to have fixed the notional monthly income of the deceased at a much higher sum. This Court after giving due consideration to the avocation of the deceased as well as the year of the accident fixes the notional monthly income of the deceased at Rs.12,000/- instead of Rs.6,000/- fixed by the Tribunal.

9. The Tribunal has also awarded compensation towards loss of future prospects at 50%. The deceased being an employee of a private concern and when no evidence has been produced before the Tribunal to show that he was a permanent employee, the appellants/claimants are entitled for compensation towards loss of future prospects only at 40% as per Pranay Sethi's judgment and not 50% as fixed by the Tribunal under the impugned award. Accordingly, this Court modifies the same to 40% instead of 50%.

10. The Tribunal has rightly deducted 50% towards the personal expenses of the deceased under the impugned award as he was a bachelor and the same is confirmed by this Court.

11. The deceased was aged 21 years at the time of the accident. The Tribunal has rightly adopted the correct multiplier of 18. Since the notional monthly income of the deceased is enhanced to Rs.12,000/- by this Court, the compensation for loss of dependency payable to the appellants/claimants is enhanced to Rs.18,14,400/- ($\text{Rs.12,000/-} + 40\% = \text{Rs.16,800/-} \times 12 \times 50\% \times 18 = \text{Rs.18,14,400/-}$) instead of Rs.9,72,000/- fixed by the Tribunal, which is calculated hereunder :

12. The Tribunal has awarded a compensation of Rs.25,000/- towards funeral expenses, which is high and is not in accordance with Pranay Sethi's judgment, where the Hon'ble Supreme Court fixed the compensation towards funeral expenses at Rs.15,000/-. Accordingly, this Court reduces the compensation towards funeral expenses from Rs.25000/- to 15,000/-.

13. Since it is a fatal accident claim, the appellants / claimants are not entitled to transport costs, but however, the



Tribunal has erroneously granted a sum of Rs.10,000/- towards transportation, which has to be set aside by this Court. Accordingly, this Court sets aside the same.

14. However, the Tribunal has awarded a meagre compensation towards loss of love and affection at Rs.25,000/- which has to be necessarily enhanced to Rs.80,000/- as the parents of the deceased are each entitled to Rs.40,000/- as per Pranay Sethi's judgment referred to supra. Therefore, this Court enhances the compensation towards loss of love and affection to Rs.80,000/- instead of Rs.25,000/- fixed by the Tribunal. Since, the 3rd appellant is the married sister of the deceased, she is not entitled for any compensation towards loss of love and affection, as she is not a dependant of the deceased.

15. However, the Tribunal has erroneously failed to award any compensation towards loss of estate to the appellants/claimants, which they are legally entitled as per Pranay Sethi's judgment, referred to supra. As per the said judgment, the appellants/claimants are entitled to Rs.15,000/- towards loss of estate.

16. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
For Funeral expenditure	25000	15000
For Transportation	10000	-
For loss of love and affection	25000	80000
For loss of dependency	972000	1814400
Loss of estate	-	15000
Total	1032000	19,24,400

17. In the result, the appeal filed by the appellants/claimants, stands partly allowed by enhancing the compensation from Rs.10,32,000/- to Rs.19,24,400/- as indicated above. No costs.

18. The second respondent/Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.307 of 2014 on the



file of the Motor Accidents Claims Tribunal (Special District Judge), Erode, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the 1st appellant/first claimant, in terms of the Tribunal's award through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellants/claimants before receiving the copy of this Judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Special District Judge,
The Motor Accidents Claims Tribunal,
Erode.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 104.

+1cc to M/s.C.Munusamy, Advocate, S.R.No.37613

C.M.A.NO.1736 OF 2016

RLD(CO)
PBS/02/12/2021