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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

CMA.NO.218 OF 2016

Dhanam

... Appellant/Petitioner

versus

1. Dinesh

2. R.Nalini

(R1 and R2 were set exparte in the trial Court)

3. The Manager,
United India Insurance Co. Ltd.,
No.19/2A, Junction Main Road,
Salem.

... Respondents/Respondents

Prayer:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.08.2015 made in MCO.P. No.254 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Perundurai.

For Appellant : Mr.C.Munusamy

For Respondents : Ms.I.Malar for R3
R1 & R2 - Exparte

JUDGMENT
(Heard Video Conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 25.08.2015 passed by the Motor Accident Claims Tribunal, Subordinate Court, Perundurai, Chennai in MCOP No.254 of 2013.

2. The appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has preferred this appeal seeking for enhancement.



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3. The details of the compensation awarded by the Tribunal under the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of dependency	90000
Funeral expenses	10000
Loss of love and affection	10000
Total	110000

4. Heard Mr.C.Munusamy, learned counsel for the appellant/claimant and Ms.I.Malar, learned counsel for the 3rd respondent/Insurance Company. R1 and R2 were set ex-parte before the Tribunal, hence notice to R1 and R2 are dispensed with.

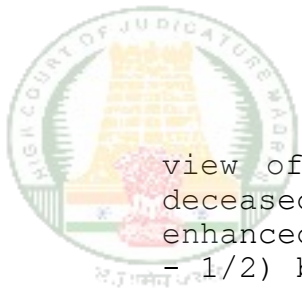
5. This Court has perused and examined the impugned award before the Tribunal.

6. The deceased Chinnasamy Gounder was aged 74 years at the time of the accident which happened on 20.08.2013. In the claim petition filed by the appellant/claimant, who is the only daughter and the only Legal Representative has claimed that the deceased was an Agriculturist and a Milk vendor earning Rs.20,000/-p.m. However, the Tribunal fixed the notional monthly income of the deceased at Rs.3,000/-. Even though the deceased was aged 74 years at the time of the accident, this Court is of the considered view that the fixation of his notional income by the Tribunal at Rs.3,000/- is low and it has to be enhanced to Rs.4,500/- after giving due consideration to the year of the accident, which happened in the year 2013.

7. The Tribunal has rightly not granted any loss of future prospects to the appellant/claimant since the appellant/claimant was already 74 years old at the time of the accident.

8. With regard to the compensation awarded by the Tribunal under the heads funeral expenses at Rs.10,000/- and towards loss of love and affection at Rs.10,000/- are concerned, the same is confirmed by this Court as it is a just compensation.

9. Excepting for modifying the notional monthly income of the deceased to Rs.4,500/- instead of Rs.3,000/- fixed by the Tribunal, the compensation awarded by the Tribunal under various other heads are confirmed. Accordingly, the notional monthly income of the deceased is fixed by this Court at Rs.4,500/-. In



view of the enhancement of the notional monthly income of the deceased to Rs.4,500/- by this Court, the loss of dependency is enhanced from Rs.36,000/- to Rs.1,35,000/- (Rs.4,500/- x 12 x 5 - 1/2) by this Court.

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10. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of dependency * Rs.3,000/- x 12 x 5 - 1/2 #Rs.4500 x 12 x 5 - 1/2	90000 *	135000 #
Funeral expenses	10000	10000
Loss of love and affection	10000	10000
Total	110000	155000

11. In the result, the appeal filed by the appellant / claimant, stands partly allowed by enhancing the compensation from Rs.1,10,000/- to Rs.1,55,000/-, as indicated above. No costs.

12. The 3rd 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 MCO.P. No.254 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Perundurai, 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 appellant/claimant through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

vsi2



1.

- 2.

AK-II (CO)
CS/16/09/2021