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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.339 of 2016

1.Valli

2.Kumar

...Appellants/Claimants

..Vs..

1. Ramasamy

2. Reliance General Insurance Co. Ltd.,

Sri Lakshmi Complex,

1st Floor, Bharathi Street,

Omalur Main Road,

Swarapuri Salem Dt.

...Respondents/Respondents

(Notice to R1 is dispensed with

-set ex parte before the

Tribunal)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP.No.720 of 2012 dated 25.08.2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Namakkal.

For Appellants : Mr.TS.Arthaneswaran
for Mr.C.Paraneedharan

For Respondent 2 : Mr.S.Arun Kumar
R1-set exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 25.08.2014 passed by the Motor Accident Claims Tribunal (Principal District Judge, Namakkal) in MCOP.No.720 of 2012.

2. Heard Mr.TS.Arthaneswaran, learned counsel representing Mr.C.Paraneedharan, learned counsel for the Appellants and Mr.S.Arun kumar, learned counsel for the second respondent. Since the first respondent was set exparte before the Tribunal, notice to the first respondent is dispensed with by this Court.



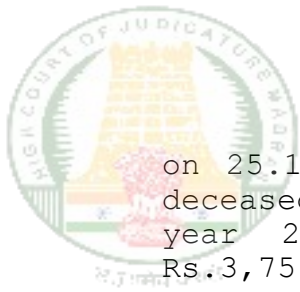
3. The Appellants/claimants are the parents of the deceased minor boy Karthikjeeva, who died on 24.12.2011 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The Appellants/claimants preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of their son Karthikjeeva.

4. The Motor Accident Claims Tribunal under the impugned Award directed the second respondent to pay the Appellants/claimants a compensation of Rs.3,75,000/- together with interest and costs as detailed hereunder:

Heads	Award amount (Rs.)
Loss of dependency	2,25,000/-
Non-pecuniary damages	75,000/-
Future Prospects	75,000/-
Total	3,75,000/-

5. The Appellants/claimants being unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking for enhancement.

6. The deceased is a minor boy who was aged six years old at the time of the accident which happened on 24.12.2011. The Appellants have challenged the impugned award on the ground that the Tribunal has not awarded compensation towards loss of love and affection, towards funeral expenses. The Hon'ble Supreme Court in its latest decision in the case of Rajendra Singh & Others vs. National Insurance Company Limited & Others reported in CDJ 2020 SC 585, in a case also involving a minor who died as a result of an accident on 25.12.2012 held that the compensation assessed at Rs.2,95,000/- cannot be considered to be unjust and therefore, the Hon'ble Supreme Court was not persuaded to enhance the compensation so fixed. In the case on hand, the accident happened on 24.12.2011 and the deceased minor is aged six years and the Tribunal has awarded a total compensation of Rs.3,75,000/- which included Rs.2,25,000/- towards loss of dependency, Rs.75,000/- towards non pecuniary damages and another sum of Rs.75,000/- towards Future Prospects and therefore, the contention of the Appellants/claimants that the compensation awarded by the Tribunal is inadequate and unjust has to be rejected by this Court. Even in the case of Rajendra Singh referred to supra, the deceased was aged 12 years when the accident happened on 25.12.2012. When the Hon'ble Supreme Court was not persuaded to enhance the compensation from Rs.2,95,000/- for a deceased minor aged 12 years for an accident that happened



on 25.12.2012, this Court cannot enhance the compensation to a deceased minor aged 6 years for an accident that happened in the year 2011 as the compensation fixed by the Tribunal is Rs.3,75,000/-

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7. For the foregoing reasons, there is no merit in this Appeal. Accordingly, this Civil Miscellaneous Appeal shall stand dismissed. The Second Respondent Insurance Company is directed to deposit the entire award amount along with interest and costs as assessed by the Tribunal after deducting the amount already deposited if any to the credit of MCOP.No.720 of 2012 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.720 of 2012 to the bank account of the respective Appellants/claimants as per the ratio apportioned by the Tribunal through RTGS within a period of one week thereafter. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge,
Namakkal.
2. The Section Officer
V.R.Section,
High Court of Madras.

+1cc to M/s.S.Arunkumar, Advocate, Sr.25721

C.M.A.No.339 of 2016

GMI[co]
NSK 16/09/2021