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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.01.2021

PRONOUNCED ON : 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.962 of 2016

1. Palaniammal

2. Thangavel

... Appellants/Petitioners

Vs.

1. Raja (Ex parte)

2. The Oriental Insurance Company Limited,
Branch Office, No.3L,
Siddha Veerappa Chetty Street,
Dharmapuri Town & Dharmapuri District.

... Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in the Judgment and decree dated 05.02.2016, made in MCOP.No.264 of 2015, on the file of MACT/Principal District Court, Namakkal.

For Appellants : Mr.Ma.P.Thangavel

For R1 : Ex-Parte

For R2 : Mr.K.Vinod

JUDGMENT

(The case has been heard through video conference)

Claimants are the appellants herein.

2.This appeal has been preferred by the claim petitioners seeking enhancement of compensation awarded in MCOP.No.264 of 2015, by the Motor Accident Claims Tribunal/learned Principal District Judge, Namakkal.



3.The factum of the accident, manner of the accident and rash and negligent driving on the part of the driver of the first respondent's vehicle, are not under challenge.

4.During the course of Trial, before the Tribunal, on the side of the petitioners PW1, PW2 & PW3 were examined and marked Exs.P1 to P10 and on the side of the respondents no witness has been examined.

5.Heard both the learned counsel on the point of quantum of compensation.

6.According to the claim petitioners, they are the widow and the son of the deceased viz., Kuppusamy and the deceased was working as a Transport Manager in Kurinchi Metric Higher Secondary School, Kavettipatti, and was getting salary of Rs.20,000/- per month and to show the same, they have produced Exs.P8 to P10/salary registers of the deceased Kuppusamy. In this regard, PW2/Mani was examined to show that the deceased was engaged as Transport Manager in the Kurinchi Metric Higher Secondary School. However, he has not produced the service register or attendance registrar as he was confronted in the cross examination.

7.The case of the Insurance Company is that the deceased Kuppusamy is none other than father of the second claim petitioner and he is the share holder in the school, wherein, the deceased alleged to have been worked as a Transport Manager. Taken note of the non projection of the service record or attendance register, the Tribunal has rightly fixed the notional income.

8.Taking into consideration the nature of the employment, this Court is of the considered view that the income of the deceased may be fixed at Rs.9,000/- and the future prospects fixed at 40% and taking into consideration the age and avocation of the deceased viz., Transport Manager of the School and the date of the accident of the year 2015, the pecuniary loss sustained by the claim petitioners are re-assessed as under:

$$\begin{aligned} 9,000 \times 40\% \text{ of } 9,000 &= 12,600/- \\ \text{Rs.}12,600/- \times 12 \times 7 \times 1/3 &= 3,52,800/- \end{aligned}$$

and compensation under various heads awarded by the Tribunal are reassessed as under:



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S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of Income	3,36,000/-	3,52,800/-
2	Loss of love and affection	10,000/-	40,000/-
3	Consortium(first petitioner)		40,000/-
3	Funeral expenses	5,000/-	15,000/-
4	Loss of estate		15,000/-
5	Medical Bills (as per Ex.P6)	1,00,000/-	1,00,000/-
6	Transportation Expenses	---	5,000/-
	Total	4,51,000/-	5,67,800/-

Hence, Compensation awarded by the Tribunal is enhanced from Rs.4,51,000/- to Rs.5,67,800/- (Rupees Five Lakhs Sixty Seven Thousand Eight Hundred Only)

9.In the result,

(a)This Civil Miscellaneous Appeal is partly allowed to the limited extent indicated as above.

(b)Both the respondents are directed to deposit the award amount as ordered by this court to the credit of MCOP.No.264 of 2015, on the file of MACT/Principal District Court, Namakkal, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c)The award amount will carry interest at the rate of 7.5% per annum.

(d)On such deposit, the first petitioner is permitted to withdraw 75% of the award amount viz., Rs.4,25,850/- and the second petitioner is permitted to withdraw 25% of the award amount viz., Rs.1,41,950/- with proportionate interests, less the amount already withdrawn, if any.

(e) The claimants shall pay necessary Court fee, if any, on the enhanced compensation.

(f) No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



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To

The Motor Accident Claims Tribunal/
Principal District Court,
Namakkal.

+1cc to M/s.Ma.P.Thangavel, Advocate, S.R.No.14508

+1cc to M/s.Elveera Ravindran, Advocate, S.R.No.14476

CMA.No.962 of 2016

RP[co]
NSK 30/09/2021