

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2754 of 2019

1.E.Mohana Devi
2.K.S.Esudevendran

.. Appellants/Petitioners

Vs.

1. M/s.Panimalar Engineering College,
Rep. By its MD,
No.158, Kunnavkkam Village,
Panruti Post,
Kanchipuram District.
(R1 remained exparte before the Tribunal)

2. The Oriental Insurance Co. Ltd.,
Oriental House,
Broadway, Chennai 1. ..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.09.2018, made in M.C.O.P. No.1667 of 2014, on the file of the V Judge, Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr.N.Elumalai

For Respondents: Mrs.C.Harini (For R2)

for M/s.N.Vijayaraghavan

J U D G M E N T

This matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 11.09.2018, made in M.C.O.P. No.1667 of 2014, on the file of the V Judge, Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellants filed M.C.O.P. No.1667 of 2014, on the file of the V Judge, Court of Small Causes, (Motor Accident Claims

Tribunal), Chennai, claiming a sum of Rs.40,00,000/- as compensation for the death of one Ruthara who died in the accident that took place on 23.12.2013.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Bus belonging to the 1st respondent and directed the 2nd respondent as insurer of the vehicle to pay a sum of Rs.16,32,000/- as compensation to the appellants.

4.Not being satisfied with the amounts granted by the award dated 11.09.2018, made in M.C.O.P. No.1667 of 2014, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that at the time of accident, the deceased was aged 18 years, studying 1st year B.E. Electronics and Communication Engineering in S.A. Engineering College, Thiruverkadu, Chennai 600 077. To prove the same, the appellants examined father of the deceased as P.W.2 and filed Ex.P12 - Transfer Certificate of S.A. Engineering College and Ex.P13 - proof for payment of fees for first year. The Tribunal erroneously fixed only a meagre sum of Rs.10,000/- per month as notional income and deducted 50% towards personal expenses of the deceased. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the educational qualification of the deceased and Exs.P12 and P13, fixed a sum of Rs.10,000/- per month as notional income, which is not meagre. The amounts awarded by the Tribunal under other heads are not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the 2nd respondent-Insurance Company and perused the materials available on record.

8.From the materials on record, it is seen that it is the contention of the appellants that at the time of accident, the deceased was aged 18 years, studying 1st year B.E. Electronics and Communication Engineering in S.A. Engineering College, Thiruverkadu, Chennai 600 077. The appellants have marked Exs.P12 and P13 - Transfer Certificate and proof for payment of fees for first year, to prove the same. The Tribunal considering the materials on record, fixed a sum of Rs.10,000/- per month as

notional income. The accident is of the year 2013. Had the deceased been alive, she would have completed her education and got a decent job with handfull of salary. Considering educational qualification of the deceased and the year of accident, a sum of Rs.14,000/- per month is fixed as notional income of the deceased. The deceased was aged 18 years and bachelor at the time of accident. Hence, applying the multiplier '18', granting 40% enhancement towards future prospects and after deducting 50% towards personal expenses of the deceased, the amounts awarded by the Tribunal towards loss of dependency is modified to Rs.21,16,800/- {[Rs.14,000/- + Rs.5,600/- (40% of Rs.14,000/-)] x 12 x 18 x 50%}. The amounts granted by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	15,12,000/-	21,16,800/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Transportation	10,000/-	10,000/-	Confirmed
5.	Loss of love and affection	80,000/-	80,000/-	Confirmed
	Total	16,32,000/-	22,36,800/-	Enhanced by Rs.6,04,800/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.16,32,000/- is enhanced to Rs.22,36,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.1667 of 2014. On such deposit, the appellants are permitted to withdraw their share of the award amount, now determined by this Court,

along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gsa
To

1. The V Judge,
Court of Small Causes,
(Motor Accident Claims Tribunal),
Chennai.

+1 CC to Mr.N. Elumalai, Advocate sr 5988.

C.M.A.No.2754 of 2019

PPA (CO)
SP(22/02/2021)



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