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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1163 of 2020

1.S.Prema

2.S.Sathia Babu

3.R.K.Sangeetha

... Appellants/Petitioners

vs.

1.M/s.Anton Engineering,
No.591/1, T.N.Road,
Washermenpet,
Chennai - 600 021.

2.The Oriental Insurance Co. Ltd.,
No.8, Esplanade,
Chennai - 600 104.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 22.01.2019 made in M.C.O.P.No.1109 of 2011 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

For Appellants :Mr.P.Satheesh Kumar

For Respondents-1:Ex-parte

For Respondent-2 :Mr.E.Chandrasekaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed seeking enhancement of compensation granted by the Tribunal in the award dated 22.01.2019 made in M.C.O.P.No.1109 of 2011 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

2. The appellants are the claimants in M.C.O.P.No.1109 of 2011 on the file of the Motor Accident Claims Tribunal, III Court



of Small Causes, Chennai. They filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of the deceased R.Sundarajan due to the accident, which occurred on 13.03.2010.

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3. The case of the appellants is that on 13.03.2010 about 12.45 p.m., while the first petitioner's husband was walking in the Thiruvottiyur to Ennore express road from North to South direction, a JCB bearing Reg.No.TN-04-S-9201 driven by its driver in a rash and negligent manner in the same road from South to North direction, dashed against the deceased, thereby the deceased sustained fatal injuries and then died.

4. The Tribunal considering the pleadings, oral and documentary evidence, held that the deceased underwent surgical procedure for Scrotal injury and he was discharged on 02.06.2010. He died subsequently on 19.10.2010 after a period of 3 months from the date of discharge. Since no documents were produced to prove that the deceased died due to accidental injuries, the Tribunal concluded that the first petitioner's husband not died due to the consequences of the accidental injuries and awarded compensation under injury category. The Tribunal also held that the accident occurred due to the rash and negligent driving of the driver of the first respondent and directed the second respondent being the insurer of the first respondent's vehicle, to pay a sum of Rs.3,00,000/- as compensation to the appellants. Not being satisfied with the amount awarded by the Tribunal, the appellants herein have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellants contended that the Tribunal failed to note that the deceased was taking treatment for a period of 82 days as inpatient and his right testis was removed and he was taking continuous treatment till his death. He further contended that the Tribunal ought to have awarded the claim only under fatal category and not under injury category. Hence, he prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that the Claims Tribunal on considering the oral and documentary evidence has rightly awarded the compensation and therefore the same need not be interfered with.

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



8. It is the case of the appellants that the Claims Tribunal has not granted compensation under fatal category. Though the Tribunal has rightly fixed the compensation for injury, however, the future earnings have not been taken for six months. As the deceased was a Painter, a sum of Rs.8,000/- is taken as monthly income and taking note of that, Rs.48,000/- (6 x 8,000/-) is awarded under the head of Future Earnings. Moreover, it is observed that the deceased took inpatient treatment for a period of 82 days. He also underwent surgery during his inpatient treatment. Considering the nature of injuries sustained and the period of treatment undergone by the deceased, this Court inclined to grant a sum of Rs.20,000/- towards Extra Nourishment and a sum of Rs.20,000/- towards Attender Charges.

9. As the amount awarded by the Tribunal under other heads are just and reasonable, 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.	Diet	1,00,000/-	1,00,000/-	Confirmed
2.	Transportation	50,000/-	50,000/-	Confirmed
3.	Medical Expenses	1,50,000/-	1,50,000/-	Confirmed
4.	Future Earnings	Nil	48,000/- (8,000/- x 6)	Granted
5.	Extra Nourishment	Nil	20,000/-	Granted
6.	Attender charges	Nil	20,000/-	Granted
	Total	Rs.3,00,000/-	Rs.3,88,000/-	Enhanced by Rs.88,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,00,000/- (Rupees Three lakhs only) is hereby enhanced to Rs.3,88,000/- (Rupees Three lakhs Eighty Eight thousand only) together with interest at the rate of 7.5% per annum from the date of Claim Petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the Award amount determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1109 of 2011 on the file of the Motor Accident Claims Tribunal, (III Court of Small Causes), Chennai.



On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellants/Claimants through RTGS, within a period of two weeks. The Appellants are directed to pay the necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To:

1.The IIIrd Judge,
III Court of Small Causes,
The Motor accident Claims Tribunal,
Chennai.

2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 600 104.

+1cc to Mr.E.Chandrasekaran, Advocate SR.No.38710

C.M.A.No.1163 of 2020

VG-II(CO)
CB(07/12/2021)