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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.759 of 2021

1.M.Janani

2.T.Manikandan

...Appellants / Petitioners

Vs.

1.A.R.Muthuraja

2.National Insurance Company Limited,
1st Floor, Karthikeya Complex,
No.403, B-10, Mettur Main Road,
Bhavani, Erode - 638 301.

3.National Insurance Company Limited,
Selvanayagi Complex,
Perundurai Road,
Near Collector Office,
Erode - 638 011.

...Respondents / Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.07.2020 made in M.C.O.P.No.679 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Erode.

For Appellants : Mr.S.P.Yuaraj

For RR 2 & 3 : Mrs.R.Sreevidhya

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated



08.07.2020 made in M.C.O.P.No.679 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Erode.

3.The appellants are the claimants in M.C.O.P.No.679 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Erode. They filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the death of their Mother viz., T.Rani, who died in the accident that took place on 10.08.2018.

4.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 owned by 1st respondent and directed the 2nd respondent-National Insurance Company Limited, Bhavani to pay a sum of Rs.11,70,000/- as compensation to the appellants and dismissed the claim petition as against the 3rd respondent-National Insurance Company Limited, Erode.

5.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellants contended that at the time of accident the deceased was a Coolie, aged 44 years and earning a sum of Rs.10,000/- per month. But the Tribunal fixed a meagre sum of Rs.7,500/- per month as notional income of the deceased. The Tribunal ought to have fixed a sum of Rs.10,000/- as monthly income of the deceased as claimed by the appellants and awarded compensation. The amounts awarded by the Tribunal towards loss of love and affection, funeral expenses and transportation are meagre. The Tribunal failed to award any amount towards loss of estate and pain and sufferings and prayed for enhancement of compensation.

7.Per contra, learned counsel appearing for the respondents 2 & 3 contended that the appellants failed to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, a sum of Rs.7,500/- per month fixed by the Tribunal as notional income of the deceased is not meagre. The amounts awarded by the Tribunal under conventional heads are also not meagre and the



8. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondents 2 & 3 and perused the entire materials on record.

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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	10,50,000/-	14,00,000/-	Enhanced
2.	Loss of love and affection	80,000/-	80,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of estate	15,000/-	15,000/-	Confirmed
5.	Transportation	10,000/-	10,000/-	Confirmed
	Total	Rs.11,70,000/-	Rs.15,20,000/-	Enhanced by Rs.3,50,000/-

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dismissed as against the 3rd respondent-National Insurance Company Limited, Erode. No costs.

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Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Special District Judge,
Motor Accident Claims Tribunal,
Erode.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.SP.Yuaraj, Advocate SR.No.18042

+1cc to M/s.R.Sree Vidya, Advocate SR.No.18034

C.M.A.No.759 of 2021

AK-II(CO)
RVM(09/11/2021)