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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved Date : 29.07.2021

Pronounced Date : 06.08.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.3820 of 2019

1.Nagammal
2.Dineshkumar
3.Durgadevi
4.Perumayee

... Appellants/Petitioners

Vs.

1.Karthick

2.The Manager,
Reliance General Insurance Company Limited,
Sri Lakshmi Complex,
1st Floor, Bharathi Street,
Omalar Main Road,
Swarnapuri, Salem - 636 001. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.04.2018 made in M.C.O.P.No.1584 of 2015, on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal.

For Appellants : Mr.C.Thangaraju

For R2 : Ms.C.Bhuvanasundari

For R1 : No appearance

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 Tribunal in the award dated 12.04.2018 made in M.C.O.P.No.1584 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal.

3.The appellants are the claimants in M.C.O.P.No.1584 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal. The appellants are wife,



son, daughter and mother of the deceased. They filed the above said claim petition, claiming a sum of Rs.30,00,000/- as compensation for the death of one Sivaprakasam, who died in the accident that took place on 01.08.2015.

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4. According to appellants, on 01.08.2015 at about 9.30 P.M, while the said Sivaprakasam was walking on the left side of the Salem to Karur N.H. Salai Konur, near to Jayadevi Kozhipannai, the driver of the motor cycle bearing Registration No.TN 28 AY 3029, came in a rash and negligent manner and dashed against the deceased. In the accident, the said Sivaprakasam sustained fatal injuries and died on the way to hospital. Therefore, the appellants filed the above said claim petition claiming a sum of Rs.30,00,000/- as compensation for the death of the said Sivaprakasam against the respondents, being the owner and insurer of the motorcycle respectively.

5.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the Hero Honda Passion motorcycle owned by 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.10,15,000/- as compensation to the appellants.

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

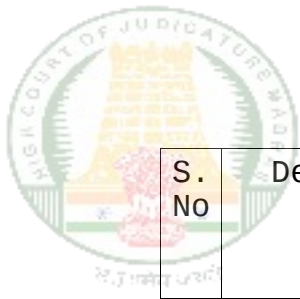
7.The learned counsel appearing for the appellants contended that at the time of accident the deceased was aged 45 years, working as an Assistant Manager in Jayadevi Hatcheries and was earning a sum of Rs.16,000/- per month. To prove the same, the appellants produced Ex.P21/Income Tax Returns for the year 2015 - 2016, Ex.P22/Authorisation letter, Ex.P23/Salary certificate, Exs.P24 to 28/Salary statement & cash voucher and examined the employer of the deceased, Mohan as P.W.3. But the Tribunal fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The Tribunal failed to award any compensation towards loss of love & affection and prayed for enhancement of compensation.

8.Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellants failed to prove the avocation and income of the deceased by producing valid documents. In the absence of any material evidence with regard to avocation and income, a sum of Rs.6,000/- per month fixed by the Tribunal as notional income of the deceased is not meagre. The Tribunal after considering both oral and documentary evidence in proper perspective has granted just compensation, which is not meagre. The appellants have not



9. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company 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	9,45,000/-	12,60,000/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of consortium to 1 st appellant	40,000/-	40,000/-	Confirmed
5.	Loss of love & affection to the appellants 2 to 4 (Rs.40,000/- each)	-	1,20,000/-	Granted
6.	Transport expenses	-	15,000/-	Granted
	Total	Rs.10,15,000/-	Rs.14,65,000/-	Enhanced by Rs.4,50,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,15,000/- is hereby enhanced to Rs.14,65,000/- 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, less the amount already deposited, if any, 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.1584 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal. On such deposit, the appellants are permitted to withdraw their respective share of the award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR



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To

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1.The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

2.The Section Officer,
VR Section,
High Court,
Madras.

+2cc to M/s.C.Thangaraju, Advocate Sr.39063

C.M.A.No.3820 of 2019

MG[CO]
SRG 23/11/2021