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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.715 of 2018

1. S.Dhatchayeni

2. M.Sekar @ Chandra Sekar

.. Appellants/Plaintiffs

Versus

1. M.Isravel

2. National Insurance Company Limited,
No.751, Anna Salai,
Chennai-600 002.

.. Respondents/Respondents

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.02.2015 made in M.C.O.P.No.617 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee.

For Appellants : Mrs.M.Malar

For R2 : Mr.S.Vadivel

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the award passed by the Motor Vehicles Accident Claims Tribunal, in M.C.O.P.No. 617 of 2013, dated 20.02.2015 in and by which a total sum of Rs.9,96,000/- has been awarded for the death of the son of the appellants herein.

2. Feeling aggrieved with the quantum of the compensation awarded, the claimants have come forward with the present appeal.

3.On 05.04.2013, at about 4.45 hours, while the deceased Sathish Kumar was riding a motorcycle bearing Registration



No.TN-22-BF-1026 at Arcot Road, Porur, near burial ground, a TATA Sumo Car bearing Registration No.TN-32-E-1065 came from South to East direction in a rash and negligent manner endangering public safety and hit against the motorcycle, riding by the deceased. Due to which, the deceased sustained fatal injuries and died despite treatment. The appellants herein, being the parents of the deceased son, filed a petition before the Tribunal claiming for compensation of Rs.15,00,000/-.

4.Before the Tribunal, P.Ws.1 and 2 were examined and Exs.P1 to P7 were marked. On behalf of the respondents herein, none were examined and no document was marked.

5.On consideration of oral and documentary evidence available on record, the Tribunal has awarded a total compensation of Rs.9,96,000/-.

6.Challenging the quantum of compensation awarded by the Tribunal on the lower side, the learned counsel for the appellants would contend that the Tribunal has failed to consider the fact that at the time of accident, the deceased was aged about 20 years studying B.Sc., Visual Communication, but awarded only a meagre compensation towards loss of earning since granted only to an extent of Rs.9,60,000/- by fixing the monthly income of Rs.7,500/- and after deducting Rs.2,500/- towards his personal expenses and thereby the monthly income was fixed at Rs.5,000/-. He would also contend that as regards the compensation awarded under different heads are also meagre which requires interference of this Court. He would also contend that as regards the loss of estate, the Tribunal not at all awarded any amount to which the appellants are entitled to. The Tribunal erroneously applied multiplier '16' instead of '18' since the deceased was 20 years at the time of accident.

7.On the other hand, the learned counsel for the 2nd respondent would contend that the Tribunal has rightly dealt with the evidence available on record and awarded the just compensation which requires no interference by this Court.

8.On perusal of the award passed by the Tribunal, it reveals that the Tribunal has fixed the monthly income of the deceased at Rs.7,500/- and after deducting 2/3rd towards his personal expenses and considering the age of the deceased adopted multiplier '16'. It is to be noted that the deceased was a young boy and studying Visual Communication 2nd year and was about to complete the course and there would be enough opportunities for him to get job and earn more. But, the Tribunal has only fixed a meagre income of the deceased at Rs.7,500/- and after 2/3rd deduction towards personal expenses, it was fixed at Rs.5,000/- which in the opinion of this Court



is on the very lower side. Further, the Tribunal has failed to grant future prospects. Therefore, taking note of the fact that the deceased was a graduate and studying 2nd year Visual Communication, this Court feels it appropriate to fix the monthly income of the deceased at Rs.13,000/- and also taking note of the fact that the deceased was aged 20 years at the time of accident, the appropriate multiplier is '18' and 40% has to be included towards future prospects and thereby the total sum of Rs.19,65,600/- {Rs.18,200/- [Rs.13,000/- + Rs.5,200/- (40% of Rs.13,000/-)] X 12 X 18 X 1/2} would be in the opinion of this Court, is just compensation towards loss of earning.

9.As regards the compensation awarded under the head of funeral expenses, Transportation and loss of love and affection, this Court also feels it appropriate to enhance the same at Rs.15,000/-, Rs.15,000/- and Rs.18,000/- respectively. It is to be noted that the Tribunal failed to award any compensation under loss of estate and therefore, this Court is inclined to grant sum of Rs.50,000/- towards loss of estate and the compensation awarded under the other heads by the Tribunal, this Court confirms the same. Accordingly, the compensation awarded by the Tribunal is modified as under:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earning	9,60,000/-	19.65,600/-	Enhanced
2.	Funeral expenses	10,000/-	15,000/-	Enhanced
3.	Transportation	5,000/-	15,000/-	Enhanced
4.	Loss of love & affection	20,000/-	80,000/-	Enhanced
5.	Loss of cloth	1,000/-	1,000/-	Confirmed
6.	Loss of estate	-	15,000/-	Granted
	Total	Rs.9,96,000/-	Rs.20,91,600/-	Enhanced by Rs.10,95,600/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.9,96,000/- is hereby enhanced to Rs.20,91,600/- 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.617 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee. 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 (CS-I)

//True Copy//

Sub Assistant Registrar

gbi

To

1. The II Additional District Judge,
Motor Accident Claims Tribunal,
Poonamallee.
2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to M/s.M.Malar, Advocate, S.R.No.59217

+1cc to Mr.S.Vadivel, Advocate, S.R.No.59244

C.M.A.No.715 of 2018

GMR (CO)
SU (31/03/2022)