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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4175 of 2019

1.Annamalai,
S/o.Kuppusami
2.Pappathi @ Palaniammal,
D/o.Late.Kuppusami ...Appellants/Petitioners

Vs.

1.Arjunan,
S/o.Chinnamuthu gounder
2.The Branch Manager,
National Insurance Company Ltd.,
No.37/2E, Salem Main Road,
Mettur Dam RS, Salem District. ...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.08.2015 made in M.C.O.P.No.94 of 2008, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge Court, Mettur.

For Appellants	:	Mr.S.P.Yuaraj
For Respondents	:	
For R1	:	No appearance
For R2	:	Mr.J.Chandran

JUDGMENT

The claimants are the appellants in this appeal. They are aggrieved by the impugned Judgment and decree dated 07.08.2015 passed by the Motor Accidents Claims Tribunal, Subordinate Judge Court, Mettur in M.C.O.P.No.94 of 2008.



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2. By the impugned Judgment and decree, the Tribunal has awarded a total sum of Rs.1,85,000/- as compensation for the fatal death of the deceased aged about 66 years at the time of accident. The claimants are the son and daughter of the deceased.

3. The Tribunal has considered notional income of Rs.3,000/- per month and has deducted 1/3rd of the amount towards personal expenses of the deceased. It is further submitted that the Tribunal has not awarded any amount towards conventional heads and awarded a sum of Rs.1,25,000/- towards pain and sufferings.

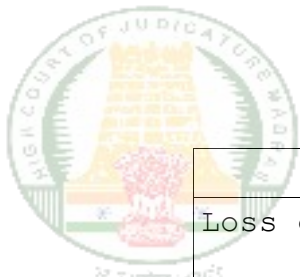
4. Mr.J.Chandran, learned counsel for the 2nd respondent/Insurance Company submits that the appellants/claimants themselves have claimed compensation towards pain and sufferings and therefore the Tribunal has awarded a sum of Rs.1,25,000/- as against Rs.3,00,000/-.

5. It is submitted that though the Tribunal has awarded the above compensation under the head of pain and sufferings, if the amounts are awarded towards conventional heads, the amount awarded by the Tribunal can be considered as just compensation and therefore prayed for confirming the award amount notwithstanding the incorrect basis in the impugned Judgement and decree awarding the aforesaid sum of Rs.1,85,000/- as compensation to the appellants/claimants.

6. Heard the learned counsel for the appellants and the 2nd respondent and perused the impugned Judgement and decree and the records which confirms the basis of the award.

7. This is a case of fatal injury resulting the death of 66 years old person who was stated to be a coolie. The Tribunal has considered a meagre income of Rs.3,000/- to award the aforesaid compensation even though the deceased was aged about 66 years and was stated to be earned Rs.5,000/- per month.

8. It would be reasonable for the Court to infer that the deceased would have earned a sum of Rs.4,500/- considering the fact that the death is of the year 2008. The Tribunal has also not awarded compensation under the conventional heads. Considering the above, this Court is inclined to recompute the compensation as follows:-



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Heads and Calculation	Amount
Loss of earning capacity:-	
Monthly Income : Rs. 4,500/-	
Less: Personal Expenses 1/3rd (4,500 x 2/3) : Rs. 3,000/-	
----- : Rs. 3,000/-	
Annual Contribution to the family (3,000 x 12) : Rs. 36,000/-	
Multiplier 5 (36,000 x 5):Rs. 1,80,000/-	Rs. 1,80,000/-
Loss of Love and Affection to the appellants (25,000 x 2	Rs. 50,000/-
Loss of Estate	Rs. 15,000/-
Transportation Charges	Rs. 5,000/-
Funeral Expenses	Rs. 7,500/-
Total	Rs. 2,57,500/-

Therefore, the compensation of Rs.1,85,000/- awarded by the Tribunal is enhanced to Rs.2,57,500/- by adding another sum of Rs.72,500/-.

9. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.2,57,500/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit being made by the 2nd respondent/Insurance Company, the appellants/claimants are permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

11. This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



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To:

The Motor Accidents Claims Tribunal,
Subordinate Judge Court,
Mettur.

+1cc to M/s.SP.Yuaraj, Advocate Sr No.23593
+1cc to M/s.J.Chandran, Advocate Sr No.23426

C.M.A.No.4175 of 2019

VSNII (CO)
PR (08/10/2021)