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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.2114 of 2014

1.R.Tamilarasi

2.R.Aathishasan (Minor) rep. by his mother and
next friend R.Tamilarasi .. Appellants / Petitioners

Vs.

1.Y.Lakshmaiah

2.The New India Assurance Company Limited,
No.45, Moore Street, Vth Floor, Chennai - 1.

3.Srinivasan

4.Gomathi .. Respondents / Respondents

(The 1st respondent ex parte in lower Court,
Hence Notice may be dispense with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.01.2013 made in M.C.O.P.No.1853 of 2010 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For R2 : Mr.J.Michael Visuvasam

For R3 & R4 : Mr.N.Manohar



JUDGMENT



funeral expenses are meagre and prayed for enhancement of compensation.

7. Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the evidence of P.W.1, Exs.P4 to P5, held that there is no evidence to prove the income of the deceased and fixed a sum of Rs.6,000/- per month as notional income of the deceased and the same 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 made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. 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.

9. From the materials available on record it is seen that it is the case of the appellants that at the time of accident, the deceased was aged 35 years, working as Hotel Cashier in Guru's Banana Leaf Cuisine PTE. Ltd. To prove the same, the 1st appellant who is the wife of the deceased examined herself as P.W.1 and filed Exs.P4 & P5 to show that the deceased was earning a sum of Rs.30,000/- per month as gross income. The Tribunal considering the evidence of P.W.1, Exs.P4 & P5, held that there is no evidence to prove the income of the deceased and also not sure whether the said S.Raja would continue the foreign job and fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2010. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.10,000/- per month is fixed as notional income of the deceased. The deceased was aged 35 years at the time of accident. The Tribunal has not granted any compensation towards future prospects. The appellants are entitled to 40% compensation towards future prospects. As per the II Schedule of the Motor Vehicles Act, the Tribunal rightly adopted multiplier '16'. There are four dependants of the deceased and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. Thus, by fixing the monthly income as Rs.10,000/- the compensation awarded by the Tribunal towards pecuniary loss is modified to Rs.20,16,000/- {Rs.14,000/- [Rs.10,000/- +



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Rs.4,000/- (40% of Rs.10,000/-)] X 12 X 16 X 3/4}. The amount awarded by the Tribunal towards loss of consortium to the 1st appellant is excessive and hence, the same is hereby reduced to Rs.40,000/-. The amount awarded by the Tribunal towards loss of love and affection is meagre. A reasonable amount of Rs.40,000/- each is enhanced towards loss of love and affection to the 2nd appellant and respondents 3 & 4. The Tribunal has not awarded any amounts towards loss of estate and transportation expenses. A reasonable amount of Rs.15,000/- each is granted towards loss of estate and transportation expenses. 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.	Pecuniary loss	8,64,000	20,16,000	Enhanced
2.	Loss of consortium to the 1 st appellant	50,000	40,000	Reduced
3.	Loss of love and affection to the 2nd appellant and respondents 3 & 4 each Rs.40,000/-	40,000	1,20,000	Enhanced
4.	Funeral expenses	10,000	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
6.	Transportation expenses	-	15,000	Granted
	Total	Rs.9,64,000/-	Rs.22,21,000/-	Enhanced by - Rs.12,57,000/-

10.In the result, this Civil Miscellaneous Appeal is



partly allowed and the compensation awarded by the Tribunal at Rs.9,64,000/- is hereby enhanced to Rs.22,21,000/- 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.1853 of 2010 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai. On such deposit, the 1st appellant and respondents 3 & 4 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. The share of the minor 2nd appellant is directed to be deposited in any one of the Nationalized Banks, till the minor 2nd appellant attains majority. On such deposit, the 1st appellant, being the mother of the minor 2nd appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor 2nd appellant. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl

To

1.The V Judge,
Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

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

+1cc to Mr.N.Manoharan, Advocate, S.R.No.31251
+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No.31790
+1cc to Mr.K.Varadha kamaraj, Advocate, S.R.No.31336

C.M.A.No.2114 of 2014

MG(CO)
SB(10/11/2021)