



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1956 of 2020

1.Santhi

2.Annadurai

.. Appellants/Petitioners

Vs.

1.V. Velusamy

2.The Divisional Manager,
United India Insurance Company Ltd.,
No.77, Oriental Complex,
A.A. Street, Salem District.

(This respondent also doing business
at No.2, Bhuvaneshwari Complex,
Dr.Sankaran Road,
Namakkal Taluk & District.)

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.01.2020, made in M.C.O.P. No.1157 of 2018, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Namakkal.

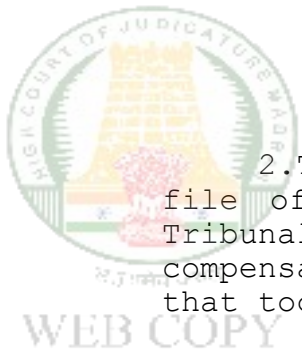
For Appellants : Mr.A.Sathishkumar

For Respondents : Mrs.I.Malar (For R2)

J U D G M E N T

This matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 08.01.2020, made in M.C.O.P. No.1157 of 2018, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Namakkal.



2.The appellants filed M.C.O.P. No.1157 of 2018, on the file of the Principal District Court, (Motor Accident Claims Tribunal), Namakkal, claiming a sum of Rs.30,00,000/- as compensation for the death of one Mohan who died in the accident that took place on 13.09.2018.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by the driver of the TATA Ace belonging to the 1st respondent and directed the 2nd respondent as insurer of the vehicle to pay a sum of Rs.16,22,670/- as compensation to the appellants.

4.Not being satisfied with the amounts granted by the award dated 08.01.2020, made in M.C.O.P. No.1157 of 2018, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that at the time of accident, the deceased was studying II year Engineering Course at Pavai Engineering College, Patchal. The deceased, apart from his studies, excelled in extracurricular activities. The Tribunal ought to have fixed a sum of Rs.30,000/- per month as notional income, instead of Rs.10,000/-. The appellants incurred a sum of Rs.84,950/- towards medical expenses and marked the medical bills as Ex.P14 to that effect. The Tribunal without assigning any reason, erroneously reduced the same to Rs.75,670/-. The Tribunal failed to award any amount towards loss of love and affection. The amount awarded by the Tribunal towards transportation charges is meagre and prayed for enhancement of the compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the fact that the deceased was a student at the time of accident, rightly fixed his notional income at Rs.10,000/- per month. The same is in order. The amounts awarded by the Tribunal under other heads are not meagre and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the 2nd respondent-Insurance Company and perused the materials available on record.

8.From the materials on record, it is seen that it is the contention of the appellants that at the time of accident, the deceased was aged 19 years, studying II Year Engineering at Pavai Engineering College, Patchal. They produced Mark sheets and Transfer Certificate as Exs.P9 to P11 respectively. The Tribunal fixed a meagre sum of Rs.10,000/- per month as notional



income of the deceased. The accident is of the year 2018. After completion of his studies, the deceased could have got decent job with good salary and would have contributed to the maintenance of the family. Considering the age and educational qualification of the deceased, a sum of Rs.15,000/- per month is fixed as notional income of the deceased. The deceased was a Bachelor at the time of accident. Applying multiplier '18' and after deducting 50% towards personal expenses of the deceased, the amounts awarded by the Tribunal towards loss of dependency is modified to Rs.22,68,000/- {[Rs.15,000/- + Rs.6,000/- (40% of Rs.15,000/-)] x 12 x 18 x 50%}. The Tribunal failed to award any amount towards loss of love and affection. The appellants being parents of the deceased are each entitled to a sum of Rs.40,000/- towards loss of love and affection. The amounts granted by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. 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.	Loss of dependency	15,12,000/-	22,68,000/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Medical bill	75,670/-	75,670/-	Confirmed
5.	Transportation	5,000/-	5,000/-	Confirmed
6.	Loss of love and affection	-	80,000/-	Granted
	Total	16,22,670/-	24,58,670/-	Enhanced by Rs.8,36,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.16,22,670/- is enhanced to Rs.24,58,670/- 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, 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.1157 of 2018. On such deposit, the appellants are permitted to withdraw their share of the award amount, now determined by this Court, along with proportionate interest and costs, as per the ratio of



apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gsa

To

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

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

+2cc to Mr.C.Thangaraju, Advocate, S.R.No. 3000

C.M.A.No.1956 of 2020

VBA(CO)
GN(13/09/2021)