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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.3342 of 2021

Jeeva

...Appellant/Petitioner

Vs.

1.Mohamed Abubucker

2.National Insurance Company Limited,

rep. By its Branch Manager,

Office at No.252-A, 1st Floor,

Bharathiar Road, Karaikal.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.11.2019 made in MCOP.No.237 of 2018 on the file of the Motor Accident Claims Tribunal (District Judge), Karaikal.

For Petitioner : Mr.K.Varadha Kamaraj

J U D G M E N T

Challenge in this appeal is to the award of the Motor Accidents Claims Tribunal, Karaikal in and by which, the claimant was favoured with an award for a sum of Rs.8,97,508/-.

2.The claim was made for the death of one Mahalingam, father of the petitioner, who died in a motor accident that occurred on 06.07.2018. It was claimed that the said Mahalingam was hit by the motor cycle bearing Registration No.PY-02-M-1183, when he was walking on the Nagore main road from Melavanjore to Keezhavanjore. He sustained severe injuries and was admitted in the General Hospital at Karaikal. It is stated that he died on 13.08.2018 because of the injuries he sustained in the accident.



3.The Insurance Company resisted the claim contending that the accident had not occurred due to rash and negligent driving of the two wheeler. It would also contend that the compensation claimed is excessive. The Tribunal, considering the evidence on record, concluded that the accident had occurred due to the rash and negligent driving of the two wheeler. The liability of the Insurance Company to pay the award amount was also sustained.

4.On the quantum, the Tribunal took the monthly income of Rs.13,705/- and deducted 1/3rd towards personal expenses of the deceased and fixed the monthly loss of dependency at Rs.9,137/-. Adopting a multiplier of 7, the Tribunal worked out the total loss of dependency at Rs.7,67,508/-. The Tribunal granted a sum of Rs.1,00,000/- towards loss of love and affection, Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses, and arrived at a total compensation of Rs.8,97,508/-. Claiming that the compensation awarded by the Tribunal is meagre, the appellant seeks enhancement.

5. Heard Mr.K.Varadha Kamaraj, learned counsel appearing for the Appellant.

6.Mr.K.Varadha Kamaraj, learned counsel appearing for the appellant would vehemently contend that the adoption of income at Rs.13,705/- per month for the accident that occurred in 2018 is very low. He would also point out that no amount has been granted towards pain and suffering, though the deceased was inpatient between 06.07.2018 and 13.08.2018 for more than a month. I have considered the submissions of the learned counsel.

7.As regards the fixation of monthly income, the Tribunal has adopted inflation index and fixed a monthly income at Rs.13,705/- and deducted 1/3rd towards personal expenses, when it is not shown that there is any other dependent except the claimant. Therefore, even assuming that the fixation of monthly income at Rs.13,705/- can be termed as less, the deduction of 1/3rd for personal expenses mitigates the loss that would have occurred to the claimant because of the low fixation of the monthly income. As regards absence of award for pain and suffering, the Tribunal has awarded Rs.1,00,000/- towards loss of love and affection, which is on the higher side. Award of Rs.50,000/- for loss of love and affection would be just and reasonable and the remaining amount of Rs.50,000/- awarded under



the head of loss of love and affection can be treated as an award for pain and suffering. Hence, I not find any infirmity or illegality in the award of the Tribunal. This civil miscellaneous appeal therefore, fails and it is accordingly, dismissed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

kkn
To:-

The District Judge,
Motor Accident Claims Tribunal,
Karaikal.

+1cc to Mr.K.Varadha Kamaraj, Advocate Sr.63119

CMA.No.3342 of 2021

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