



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 25.06.2021	Delivered on: 01.07.2021
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CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.3989 of 2019

1.M.Raghuraman
2.M.Kumaravel
3.M.Mahesh
4.M.Saravanan
5.M.Rajesh

.. Appellants/Petitioners

Vs.

1. R.Kalaiselvi

2. The Oriental Insurance Company Limited,
Oriental House, II Floor,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai - 600 108.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.01.2019 made in M.C.O.P.No.5832 of 2015, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellants : Ms.Ramya V.Rao
for Mr.A.N.Viswanatha Rao

For R1 : No appearance

For R2 : Mr.K.Moorthy

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode".)

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 18.01.2019 made in M.C.O.P.No.5832 of 2015, on the file of



the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

2. The appellants are the claimants in M.C.O.P.No.5832 of 2015, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. The claimants filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of their Mother viz., M.Shanthi, who died in the accident that took place on 19.02.2015.

3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the driver of the unknown lorry and the rider of the motorcycle belonging to 1st respondent and directed the 2nd respondent-Insurance Company, being the insurer of the motorcycle to pay a sum of Rs.6,05,500/- as compensation to the appellants.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants contended that at the time of accident the deceased was aged 54 years, working as a Coolie and was earning a sum of Rs.10,000/- per month. But, the Tribunal has fixed a meagre sum of Rs.5,000/- per month as notional income of the deceased. The Tribunal ought to have fixed a sum of Rs.10,000/- as monthly income of the deceased as claimed by the appellants and awarded compensation. The amount awarded by the Tribunal towards loss of love and affection is meagre and prayed for enhancement of compensation.

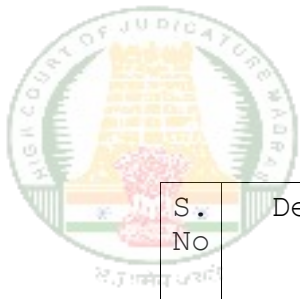
6. Though notice has been served on the 1st respondent and her name is printed in the cause list, there is no representation for her, either in person or through counsel.

7. Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellants failed to prove the avocation and income of the deceased by producing valid documents. In the absence of any material evidence with regard to avocation and income, a sum of Rs.5,000/- per month fixed by the Tribunal as notional income of the deceased is not meagre. The Tribunal has awarded excessive amount of Rs.1,25,000/- for loss of love and affection. The Tribunal considering the entire materials on record has awarded a sum of Rs.6,05,500/- as compensation to the appellants, which is not meagre. In view of the same, the appellants are not entitled to any enhancement and prayed for dismissal of the appeal.



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10. It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimant has claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. Thus, the compensation awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	4,45,500/-	8,91,000/-	Enhanced
2.	Loss of love and affection	1,25,000/-	1,50,000/-	Enhanced
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Transportation	5,000/-	5,000/-	Confirmed
5.	Loss of estate	15,000/-	15,000/-	Confirmed
	Total	Rs.6,05,500/-	Rs.10,76,000/-	Enhanced by Rs.4,70,500/-

11. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.6,05,500/- is hereby enhanced to Rs.10,76,000/- 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.5832 of 2015, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. 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. The appellants are directed to pay the necessary Court fee for the enhanced amount of compensation as per the order of this Court dated 06.09.2019 made in C.M.P.No.19066 of 2019 in C.M.A.SR.No.112734 of 2019. No costs.

Sd/-
Assistant Registrar(I)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

2. The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.A.N.Viswanatha Rao, Advocate, S.R.No.30341

C.M.A.No.3989 of 2019

PA(CO)
HS(13/09/2021)