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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2981 of 2017

1. B.Saraswathi
2. A.Baskar
3. B.Sangeetha
4. B.Praveenkumar

..Appellants/Claimants

Vs.

- 1.Syed Fareedduddin Hussaini
- 2.The Divisional Manager,
National Insurance Company Limited
No.19, Officer's line,
Vellore.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and Judgment dated 17.04.2017 in M.C.O.P.No.336/2013 on the file of Motor Accident Claim Tribunal/Sub Court, Ranipet, Vellore District.

For Appellants : Mr.G.Rajan

For R2 : Mr.J.Chandran (R2)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 17.04.2019 made in M.C.O.P.No.336 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Court, Ranipet, Vellore District.

2.The appellants are the claimants in M.C.O.P.No.336 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Court



Ranipet, Vellore District. They filed the above said claim petition, claiming a sum of Rs.50,00,000/- as compensation for the death of one B.Sathish Kumar, who died in an accident that took place on 31.08.2013.

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3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to 1st respondent and directed the first and second respondents to pay a sum of Rs.8,38,000/- as compensation to the appellants 1 and 2 and the claim in respect of the appellants 3 and 4 was dismissed.

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 the deceased has completed B.A.History and was working as Assistant in Harman Clicking Dies, Ranipet and was earning a sum of Rs.14,000/- per month. To prove the same, the appellants examined one Abdul Salam, who is the Accountant of Harman Ranipet Clicking Dies as P.W.3, and filed Ex.P13 to show that the deceased was earning a sum of Rs.14,000/- per month as gross income, but the Tribunal failed to consider the evidence of P.W.3 and Ex.P13 and fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The Tribunal ought to have fixed a sum of Rs.20,000/- as monthly income of the deceased after taking the future prospects and devaluation of currency into consideration and awarded compensation. The amounts awarded by the Tribunal towards loss love and affection to appellants 1 & 2 is meagre. The Tribunal failed to award any amount towards transportation and prayed for enhancement of compensation.

6.Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the claim in respect of the appellants 3 and 4 were dismissed before the Tribunal for the reason that as per Ex.P4-Legal Heirship Certificate, the appellants 1 and 2 alone are to be treated as legal heirs of the deceased. The Tribunal considering the evidence of P.W3, and Ex.P13, and also based on the materials available on record and taking note of technical qualification and likelihood of the employment fixed a sum of Rs.6,000/- per month as notional income of the deceased and the same is not meagre. The amounts awarded by the Tribunal towards loss of love and affection to appellants 1 & 2 is not meagre. The total compensation awarded by the Tribunal is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

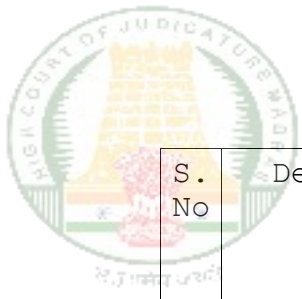


7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent- Insurance Company and perused the entire materials on record.

8. It is the case of the appellants that at the time of accident the deceased was aged 23 years, working as Assistant in Harman Ranipet Clicking Dies, Ranipet and was earning a sum of Rs.14,000/- per month. To prove the same, the appellants examined one Abdul Salam, who is the Accountant of Harman Ranipet Clicking Dies as P.W.3 and filed Ex.P13 to show that the deceased was earning a sum of Rs.14,000/- per month as gross income. The Tribunal considering the evidence of P.W.3, Ex.P13, and also based on the materials available on record and by taking note of technical qualification and likelihood of the employment fixed a sum of Rs.6,000/- per month as notional income of the deceased. 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 23 years at the time of accident. By, following the judgments of the Hon'ble Apex Court reported in 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others] and 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another], 40% enhancement is awarded towards future prospects of the deceased and by applying multiplier '18' and since the deceased is a bachelor, by deducting 50% towards personal expenses of the deceased compensation awarded by the Tribunal towards loss of dependency is modified to Rs.15,12,000/- [Rs.10,000/- + Rs.4000/- (40% of Rs.10,000/-)] X 12 X 18- 50%}.

9. On considering the documents available on record and upon hearing submissions made on either side, this Court finds that the compensation awarded by the Tribunal towards Love and Affection may be reduced and accordingly the same is reduced to Rs.40,000/- and further compensation towards Loss of expectancy of life and Mental Agony need not be granted and therefore no compensation is awarded towards Loss of expectancy of life and Mental agony and hence no compensation is awarded under the said heads. Loss of Estate is increased to Rs.15,000/- and Transportation Expenses is awarded at Rs.5,000/-. The compensation awarded towards Medical Bills and Funeral Expenses remains unaltered.

10. 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	6,48,000/-	15,12,000/-	Enhanced
2.	Loss of Love and Affection	50,000/-	40,000/-	Reduced
3.	Loss of Expectation of life	1,00,000/-	Nil	Nil
4.	Loss of Estate	5,000/-	15,000/-	Enhanced
5.	Funeral Expenses	10,000/-	10,000/-	Confirmed
6.	Transport Expenses	Nil	5,000/-	Granted
7.	Mental Agony	20,000/-	Nil	Not granted
8.	Medical Bills	5,000/-	5,000/-	Confirmed
	Total	Rs.8,38,000/-	Rs.15,87,000/-	Enhanced by Rs.7,49,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.8,38,000/- is hereby enhanced to Rs.15,87,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants 1 and 2 are entitled for the compensation as per the ratio of apportionment fixed by the Tribunal. The respondents 1 and 2 are 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 eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.336 of 2013 on the file of the Motor Accident Claims Tribunal, Ranipet. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of two weeks. The appellants/claimants 1 and 2 shall pay necessary Court fee, if any, on the enhanced compensation. No costs. However, it is made clear that as observed by the Claims Tribunal, no compensation is granted to the appellants 3 and 4. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

The Motor Accident Claims Tribunal,
Ranipet.

Copy to:

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

+1cc to Mr.R.Rajarajan, Advocate Sr No.39136
+1cc to Mr.J.Chandran, Advocate Sr No.38553

C.M.A.No.2981 of 2017

SRA (CO)
PR (23/11/2021)