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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.3153 of 2017
[video conferencing]

Rajeswari

...Appellant/Petitioner

Vs.

1. M.Uma Maheswari

2. United India Insurance Company Ltd.,
Arcot Road, Saligramam,
Chennai - 600 093.

...Respondents/Respondents

[No relief sought against the 1st respondent,
hence notice may be dispense with]

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment dated 22.12.2016 made in M.C.O.P.No.326 of 2015 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee.

For Appellant : Mr.C.Prabakaran

For R1 : No appearance

For R2 : Mrs.Vijaya Kamala

JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award passed in M.C.O.P.No.326 of 2015 dated 22.12.2016 on the file of the Motor Accidents Claims Tribunal cum II Additional District Judge, Poonamallee.

2.The appellant is the claimant in M.C.O.P.No.326 of 2015, on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee. The appellant has filed the above said claim petition, claiming a sum of Rs.10,03,000/- as compensation for the death of Sukumar @ Sukumaran, who died in the accident took place on 02.08.2015.

3.The Tribunal considering the pleadings, oral and



documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the bus belonging to the 1st respondent herein and directed the 1st respondent / owner of the vehicle and the 2nd respondent / Insurance Company and directed the 2nd respondent / Insurance Company to pay a sum of Rs.10,44,500/- as compensation to the appellant.

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present Civil Miscellaneous Appeal seeking enhancement of compensation.

5. The learned counsel appearing for the claimant would submit that the Trial Court has not considered the future prospects and also the correct multiplier has not been adopted for calculating the loss of income. It is further submitted that the Trial Court ought to have deducted 1/3rd of the income of the deceased instead of 1/2nd income since the claimant is widowed mother. The learned counsel has no objection pertaining to the monthly income of the deceased as Rs.8,750/- fixed by the Tribunal.

6. Per Contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the amounts awarded by the Tribunal under different heads are not meager. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. The Tribunal has awarded a sum of Rs.50,000/- towards funeral and transport expenses which is obviously on the higher side and hence the same is reduced to Rs.30,000/- Further the Tribunal has awarded Rs.1,00,000/- towards loss of love and affection which is also on the higher side and hence, the same is reduced to Rs.40,000/-.

9. On perusal, as submitted by the learned counsel for the appellant, the Tribunal has not awarded any compensation towards future prospects. Considering the age, nature of avocation and as per National Insurance Company Limited Vs. Pranay Sethi and Others case 40% of the income has to be taken into consideration for considering future prospects. Further the Tribunal has erroneously deducted 1/2nd of income without considering the fact that the claimant is a widowed mother. The Tribunal has also adopted wrong multiplier of "17" instead of "16". Hence, the loss of income has to be calculated considering the above facts. It would come to Rs.15,68,064/- [8750 + 3500 (40%) = 12250/-]. By deducting 1/3 would come to Rs.8167/- [8167 X 12 X "16"] =



Rs.15,68,094/-. Thus, the compensation awarded by the Tribunal is modified as follows:

Sl. No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1	Loss of income	Rs.8,92,500/-	Rs.15,68,064/-	enhanced
2	Funeral and transport expenses	Rs.50,000/-	Rs.30,000/-	reduced
3	Loss of love & affection	Rs.1,00,000/-	Rs.40,000/-	reduced
4	Loss of amenities	Rs.2,000/-	Rs.2,000/-	confirmed
	Total	Rs.10,44,500/-	Rs.16,40,064/-	Enhanced
			Rounded off @ Rs.16,40,000/-	

10. In the result, this Civil Miscellaneous Petition is partly allowed and the compensation awarded by the Tribunal at Rs.10,44,500/- is hereby enhanced to Rs.16,40,000/- together with interest at the rate of 9% per annum from the date of filing 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.326 of 2015, on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee. On such deposit, the appellant is permitted to withdraw the 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. No costs.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

ssi



To:

1. The II Additional District Judge,
Motor Accidents Claims Tribunal,
Poonamallee.

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

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.57352

C.M.A.No.3153 of 2017

PVS (CO)

RGA(02/06/2022)