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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.813 of 2020

1.Muthayee

2.Seerangayee

...Appellants/Petitioners

vs.

1.Pari

2.The Oriental Insurance Co., Ltd.,
Tiruchengode.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against judgment and decree in M.C.O.P.No.149 of 2015, dated 18.09.2019 on the file of the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

For Appellants : Mr.C.Paraneetharan

For Respondents : Mr.M.J.Vijayaraghavan - R2
Not ready in notice - R1

JUDGMENT

The claimant is the appellant before this Court seeking enhancement of the award passed by the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode in M.C.O.P.No.149 of 2015, dated 18.09.2019.

2. The brief facts are as follows:

The claimants are the mother and sister respectively of the deceased latha @ Murugesan. The claimants had sought compensation of a sum of Rs.25,00,000/-. It is their contention that the deceased Latha was a sales woman in a shop selling plastics. The 2nd respondent/Insurance Company has filed the petition and contested the claim. They would deny the nature of the accident, the liability as well as the quantum.



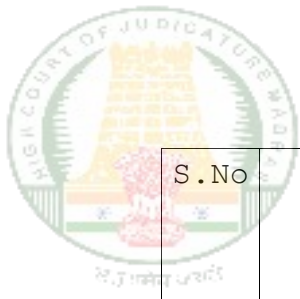
3. The Tribunal below had perused the evidence on record and come to the conclusion that the claimants had not proved the occupation of the deceased Latha and therefore, arrived at a notional income of Rs.6,000/- to which future prospects 25% was added. A sum of Rs.15,000/- each was granted under the heads of Future prospects and loss of Estate. Therefore, the claimants has filed this appeal challenging the award.

4. Mr.C.Paraneedharan, learned counsel appearing on behalf of the appellants/claimants would submit that the Tribunal below ought to have fixed the notional income of Rs.10,000/- and that apart no amount has been granted under the head of loss of love and affection to the claimants.

5. The learned counsel appearing for the Insurance Company would submit that as regards the fixation of notional income the Tribunal has followed the earlier judgments of the Hon'ble Supreme Court and therefore, the Tribunal has been rightly fixed the notional income at Rs.6,000/- p.m., after adding future prospects and deducting 50% towards personal expenses.

6. Heard the learned counsel for both sides.

7. Taking into account the earlier pronouncement of the judgment of the Hon'ble Supreme Court, the Tribunal has rightly fixed the notional income at Rs.6,000/-. The Tribunal has added 25% towards future prospects and deducted 50% towards personal expenses and the income was arrived at a sum of Rs.3,750/-. Further, a perusal of the award would clearly show that no amount has been granted to the claimants under the head of loss of love and affection. Therefore, this Court reworks the claim awarded by the Tribunal and each of the claimants are entitled to a sum of Rs.40,000/- under the head of love and affection. Therefore, the award passed by the Motor Accident Claims Tribunal (Sub-Judge), Tiruchengode is enhanced by a further sum of Rs.80,000/- under the head of loss of love and affection. The compensation is therefore reworked 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 or reduced
1.	Compensation for future loss of income	5,85,000/-	5,85,000/-	Confirmed
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Funeral Expenses	15,000/-	15,000/-	Confirmed
4.	Loss of Love and Affection to the claimants	-	80,000/-	Granted
	TOTAL	6,15,000/-	6,95,000/-	Enhanced by Rs.80,000/-

8. Therefore, the Civil Miscellaneous Appeal is partly allowed and the total compensation of Rs.6,15,000/- awarded by the Tribunal is hereby enhanced to a sum of Rs.6,95,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The Insurance Company is directed to deposit the said amount (Rs.6,95,000/-) to the credit of M.C.O.P.No.149 of 2015 on the file of the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode, together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as per the apportionment made by the Tribunal along with interest and costs, after adjusting the amounts if any already withdrawn. The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



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To

1. The Motor Accident Claims Tribunal,
Subordinate Judge
Tiruchengode.

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

+2 Ccs to Mr.T.S. Arthanareeswaran, Advocate sr 17297.

C.M.A.No.813 of 2020

MG (CO)
SP (31/05/2022)