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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A. NO.1839 OF 2021

Shanthi ...Appellant / 1st Petitioner

Vs.

1.Munuswamy

2.M.Amala ...Respondents 1 & 2 / Petitioners 2 & 3

3.V.Karthick

4.Bajaj Alliance General Insurance Company Limited

5th Floor, No.25/26 College Road,

Nungambakkam,

Chennai- 600006.

...Respondents 3 & 4 / Respondents 1 & 2

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act,1988, to enhance the compensation amount awarded in the Judgment and Decree dated 21.12.2012 made in M.C.O.P. NO.97 of 2011 on the file of the Motor Accident Claims Tribunal, (Principal District Court), Tiruvallur.

For Petitioner : Mr.D.Gopal
for Mr.N.S.Suganthan

For Respondent : Ms.Harini
for M/s M.B.Gopalan Associates[R4]
No Appearance [R3]
Notice Dispensed with [R1 & R2]

JUDGEMENT

The claimant is before this Court challenging the award passed by the Motor Accident Claims Tribunal (Principal District Court). Tiruvallur. The facts in brief are as follows:

2. The parents and sister of one M.Satish had filed M.C.O.P.NO.97 of 2011, on the file of the above Court seeking compensation for the death of the said Satish in a road accident that took place on 15.03.2010. The 1st respondent is the owner of the offending vehicle and the 2nd respondent is its insurer.



3. The deceased Satish was travelling in the Qualis car driven by one Kamalakanan, as the car reached the Kalaguntas over bridge, the driver Kamalakanan who was driving the said vehicle in a rash and negligent manner lost control of the vehicle as a result of which the vehicle dashed against the divider and went down on the left side of the road and capsized. In the said accident Nagaraj and Dilip sustained injuries all over their body and Satish sustained grievous injuries on his head, he had ultimately succumbed to his injury.

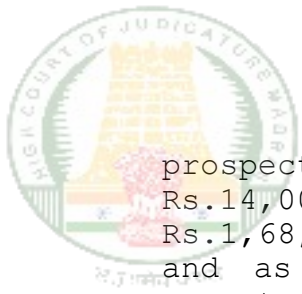
4. The 2nd respondent Insurance company had filed the counter inter alia contending that the vehicle was driven in a very careful manner by the driver and the accident was a freak accident and not on account of the negligence of the driver. That apart the amount of compensation claimed which was Rs.11,25,000/- was on the higher side.

5. During the trial, the claimants had marked copies of the salary certificate of the deceased Satish and had also examined his employer. The salary certificate which was marked as Ex.P.6 and the evidence of his employer was not taken note of and ultimately the Principal District Judge, Tiruvallur arrived at notional value of Rs.2,250/- and arrived at a total compensation of just a sum of 4,20,000/-. It is challenging the said order that the claimants/appellants are before this Court.

6. Heard the learned counsels on either side.

7. The perusal of the award clearly shows that the Tribunal has not considered Ex.P5 and Ex.P6 and also the oral evidence of P.W.3. A perusal of Ex.P5, which was marked through P.W.3 shows that till 2010 the deceased Satish was earning a monthly income of nearly Rs.9,000/- and in the year 2010, it was enhanced to a sum of Rs.15,000/-. As rightly pointed out by the learned counsel appearing for the 4th respondent, the enhancement to a sum of Rs.15,000/- appears to be suspect and made solely for the purpose of the claim petition. However, considering the fact that he had earned a sum of Rs.9,000/- in 2007, it can be safely taken that his income would have increased to a sum of Rs.10,000/- per month by the year 2010.

8. A perusal of the award would further show that no amounts have been granted under the head of loss of love and affection for the parents and only a sum of Rs.5,000/- has been awarded under the head of Transport to Hospital and funeral expenses and a sum of Rs.10,000/- alone has been awarded for loss of estate. Therefore, taking into account Ex.P.6, the monthly income of the deceased Satish can be safely taken to be a sum of Rs.10,000/- to that 40% is added towards the future



prospects. Therefore, the total income would be a sum of Rs.14,000/- The annual income would therefore, be a sum of Rs.1,68,000/-. Since the claimants are the parents and sister and as this Court is granting a compensation only for the parents therefore, 50% is to be deducted towards personal expenses of the deceased, which makes the annual income available to the parents at a sum of Rs.84,000/-.

9. The deceased was aged 25 years on the date of his death, hence, the Trial Court has adopted multiplier of 17 of the age of the deceased, therefore, the loss of income would come to a sum of Rs.14,28,000/-. A sum of Rs.40,000/- each is awarded to the parents under the head of loss of love and affection, so also sum of Rs.15,000/- is granted for loss of Estate as against the sum of Rs.10,000/- already granted and a sum of Rs.15,000/- is ordered under the head of funeral expenses, as against the sum of Rs.5,000/- earlier granted. The enhanced compensation in a Tabular form is represented below:

SR. No.	HEADS OF COMPENSATION	AMOUNT
1.	Loss of Income	Rs.14,28,000/-
2.	Loss of Love and Affection	Rs.80,000/-
3.	Loss of Estate	Rs.15,000/-
4.	Funeral Expense	Rs.15,000/-
Total		Rs.15,38,000/-

10. Therefore, the Civil Miscellaneous Appeal is allowed and the award is enhanced to a sum of Rs.15,38,000/-. The 4th respondent/ Insurance Company is directed to deposit the said amount to the credit of M.C.O.P. NO.97 of 2011 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 claimant is entitled to withdraw the same forthwith. The claimant shall pay the Court Fee for the enhanced amount within a period of two weeks from the date of receipt of a copy of this Judgement. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
(Principal District Court),
Tiruvallur.

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

+1cc to Mr.N.S.Suganthan, Advocate Sr.No.9306

C.M.A.No.1839 of 2021

SVI (CO)
RVM(22/03/2022)