



C.M.A.No.2570 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 27.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2570 of 2014

1.Selvi
2.R.Uma Maheswari
3.R.Deivanai
4.R.Nidhya ... Appellants/Petitioners

Vs.

1.K.M.Ramasamy
2.The United India Insurance Company Limited,
Muthaiah Complex, II Floor,
1170, Mettur Road,
Erode – 638 011. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 28.03.2014 in M.C.O.P.No.680 of 2011 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari.



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For Appellants : Mr.C.Kulanthaivel

For Respondents : Dr.C.Paranthaman for R2

R1 – *ex parte* vide EB

JUDGMENT

Seeking an enhancement of the Award granted by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari, in M.C.O.P.No.680 of 2011, the petitioners/claimants are before this Court.

2.The claimants had filed the above claim petition seeking compensation of a sum of Rs.20 lakhs for the death of one Ramasamy who is the husband of the 1st claimant and the father of the claimants 2 to 4 in a road accident on 23.08.2011. The said Ramasamy was working as a Material Manager with M/s.Arul Granites Private Limited and earning a monthly income of Rs.15,000/-. On the said date, the said Ramasamy along with his Company Manager by name Arumugam



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had gone to Erode for purchasing materials for their Company. They had alighted from the bus and were walking near Erode Town bus Round tana at 03.30 p.m. At that time, a bus bearing Registration No.TN33 AD 6999 driven by its driver in a rash and negligent manner hit the deceased Ramasamy and thereafter, the right side rear wheel of the bus ran over the said Ramasamy, who was rushed to the Government headquarters hospital, Erode, for treatment but all efforts were in vain. The said Ramasamy ultimately succumbed to his injuries. Therefore, the claimants had claimed a sum of Rs.20 lakhs as compensation.

3.The 2nd respondent/Insurance Company had alone contested the claim petition. Except for the general denial and the questioning the age, income and employment of the deceased Ramasamy, the 2nd respondent has not raised any other serious defence.



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4.The Tribunal had awarded a total compensation of a sum of Rs.6,65,500/- to the appellants. Though the claimants had filed Ex.B.13 to Ex.B.15 to show that the deceased was working as a Material Manager in M/s.Arul Granites Private Limited, the Tribunal has proceeded to take a notional income of a sum of Rs.4,500/- and no amounts have been granted towards future prospects.

5.The learned counsel for the claimants had made his submissions on the above lines.

6.Dr.C.Paranthaman, learned counsel appearing for the 2nd respondent/Insurance Company on the other hand would submit that the Tribunal has rightly fixed the notional income at Rs.4,500/- and had given reasons for not accepting the documents filed by the claimants. He would also submit that the amount of Rs.1,00,000/- granted under the head of loss of consortium is very much on the higher side and has to be reduced.



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WEB COPY 7. Heard the learned counsels appearing on either side and perused the papers.

8. It is the case of the claimants that the deceased Ramasamy was working with M/s. Arul Granites Private Limited and earning a monthly salary of a sum of Rs.15,000/-. To substantiate the said claim, they have filed Ex.B.13 – Salary Certificate which clearly shows that the said Ramasamy was working as a Stockyard Manager with M/s. Arul Granites Private Limited and earning a sum of Rs.15,000/- per month. They have also filed Ex.B.14 – Salary List of the employees for the month of July 2011 and the Board Resolution authorising PW2 to adduce evidence marked as Ex.P.15 – Authorisation Letter.



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9.The Insurance Company has not disputed the fact that the deceased Ramasamy was employed with M/s.Arul Granites Private Limited. The Tribunal has deemed it fit not to rely upon Ex.B.13 – Salary Certificate on the ground that the signatory of Ex.B.13 has not entered the box. A perusal of Ex.P.13 would indicate that the same is signed by the Managing Director. The very same Managing Director has signed the Resolution of the Board of Directors of the Company authorizing PW2 to appear as witness in M.C.O.P.No.680 of 2011. Therefore, the Salary Certificate has been signed by the very same person who has authorised PW2 to adduce evidence which only goes to show that Ex.P.13 is a valid document and the observation of the Tribunal that the signatory has not entered the box is misconceived. Therefore, considering Ex.P.13, the monthly income of the deceased Ramasamy is fixed at Rs.15,000/-. At the time of accident, he was aged about 55 years and therefore, the future prospects of 10% is added to the monthly income. Therefore, the monthly income would be a sum of Rs.16,500/- (Rs.15,000/- + Rs.1,500/- = Rs.16,500/-). The annual



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income of the deceased is a sum of Rs.1,98,000/- (Rs.16,500 x 12 =Rs.1,98,000/-). 1/4th amount has to be deducted towards personal expenses and therefore, the annual contribution to the family is a sum of Rs.1,48,500/-. To this, a multiplier of 11 is taken and the amount under the head of loss of future earning would come to a sum of Rs.16,33,500/-.

10.As rightly pointed out by the learned counsel appearing for the Insurance Company, the amounts under the head of loss of consortium has to be reduced to a sum of Rs.40,000/- instead of Rs.1,00,000/-. Likewise, the amount under head of loss of love and affection to the petitioners 2 to 4 has to be enhanced to a sum of Rs.1,20,000/- (Rs.40,000/- x 3 = Rs.1,20,000/-) from a sum of Rs.1,00,000/-. The Tribunal has granted Rs.5,000/- towards Transportation charges which has to be deleted, A sum of Rs.15,000/- each is awarded under the head of loss of estate and funeral expenses. In all other respects, the Award remains unaltered. The enhanced



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compensation would be a sum of Rs.18,23,500/-. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.4,45,500/-	Rs.16,33,500/-	Enhanced
2.	Loss of consortium	Rs.1,00,000/-	Rs.40,000/-	Reduced
3.	Loss of love and affection	Rs.1,00,000/-	Rs.1,20,000/-	Enhanced
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Loss of estate	-	Rs.15,000/-	Granted
6.	Transportation charges	Rs.5,000/-	-	Deleted
	TOTAL	Rs.6,65,500/-	Rs.18,23,500/-	

11. Accordingly, this Civil Miscellaneous Appeal is allowed. The 2nd respondent/Insurance Company is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued



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interest and costs, to the credit of M.C.O.P.No.680 of 2011 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sankari, within a period of six weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. On such deposit, the appellants are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by the Tribunal by making necessary applications.

The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs.

27.10.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps



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P.T. ASHA, J,

mps

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari.

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