



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2735 of 2021

1. Meena
2. Raghul (Minor)
3. Swathi (Minor) ... Appellants/Petitioners
(Minor Petitioner 2 & 3 are represented by their mother & NG Mrs.Meena)

Vs

1. H.Srinivasan
2. Reliance General Insurance Co. Limited.,
No.6.4th Floor, Haddows Road
Nungambakkam, Chennai - 600 006.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act 1988, against the decree and Judgment dated 02.11.2020 made in M.C.O.P.No. 4961 of 2017 on the file of Motor Accident Claims Tribunal, (Small Causes Court, Special Sub Court No.1), at Chennai.

For Appellants : Mr. K.Varadha Kamaraj

For 1st Respondent : No appearance

For 2nd Respondent : Mrs. C.Bhuvanasundari

J U D G M E N T

The Claimants, who are the wife and minor children of late Mothi, who died in a motor accident that occurred on 29.05.2017 are on appeal terming the award of Rs.14,75,000/- by the claims Tribunal as very low.

2. The factum of accident and the death of Mothi are not in dispute. The finding of the Tribunal that it is negligence of the driver of the car bearing Registration No. TN-02-AV-2151 insured with the second respondent/Insurance Company that caused



the accident is also not in dispute since the Insurance Company has not chosen to challenge the award.

3. On the quantum, Mr.K.Varadhakamaraj, learned counsel for the appellants would submit that the Tribunal erred in taking the monthly income of the deceased at Rs.10,000/-. He would contend that considering the fact that the accident had occurred in 2017, the Tribunal must have taken much higher amount as the monthly notional income.

4. The learned counsel for the appellants has no grievance with the award on the other heads, namely, loss of consortium, loss of love and affection, loss of estate, transport charges and funeral expenses. The Tribunal has awarded the following amounts under the above heads:-

Loss of Consortium	: Rs. 40,000/-
Loss of Love and Affection	: Rs.1,00,000/-
Loss of Estate	: Rs. 15,000/-
Transport Charges	: Rs. 5,000/-
Funeral Expenses	: Rs. 15,000/-

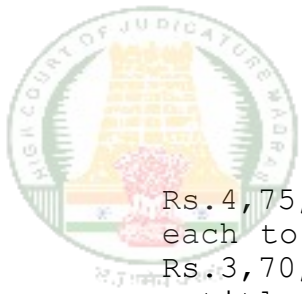
5. As far as the loss of dependency is concerned, considering the age of the deceased and his avocation, I am of the opinion that the monthly notional income could be taken at Rs.13,000/-. Adding 25% towards future prospectus, the monthly income could be Rs.16,250/- if we are to deduct 1/3rd towards personal expenses of the deceased, the monthly loss of dependency would be Rs.10,803/-. Applying multiplier '13', the total loss of dependency would be Rs.16,89,948/- and the same is round to Rs.16,90,000/-.

6. Mrs.C. Bhuvanasundari, learned counsel appearing for the Insurance Company would submit that the award under the heads for love and affection at Rs.1,00,000/- is on the higher side and the same should be only Rs.80,000/-. The said contention of the learned counsel is reasonable and deserves acceptance.

7. In view of the above, the Appeal is partly allowed. The compensation awarded by the Tribunal is modified as follows:-

Total loss of dependency	: Rs.16,90,000/-
Loss of consortium	: Rs. 40,000/-
Loss of love and affection	: Rs. 80,000/-
Loss of estate	: Rs. 15,000/-
Transport Charges	: Rs. 5,000/-
Funeral Expenses	: Rs. 15,000/-

.....
Rs.18,45,000/-



8. The Tribunal has apportioned the compensation at Rs.4,75,000/- to the first petitioner/wife and Rs.5,00,000/- each to the minor daughters. The enhanced compensation comes to Rs.3,70,000/-. The wife, namely, the first claimant would be entitled to Rs.1,00,000/- and the claimants 2 and 3 each entitled to Rs.1,35,000/- each with proportionate interest. The Insurance Company is directed to deposit the enhanced compensation along with appropriate interest as awarded by the tribunal within a period of six weeks from today.

9. On such deposit, the first claimant/wife would be entitled to withdraw the entire compensation apportioned to her. The share of the minors is directed to be deposited in cumulative interest bearing fixed deposit in a Nationalised Bank till they attain majority. The parties shall bear their costs in this Appeal.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

vsg

To

1. The Motor Accident Claims Tribunal,
Small Causes Court, Special Sub Court No.1,
Chennai.

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

+1cc to Mr.K.Varadha Kamaraj, Advocate SR.No.1706

CMA No.2735 of 2021

NRL (CO)
GMY (02/03/2022)