IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Miscellaneous Appeal No.2749 of 2021

1. Rajeswari
2. R.Suruthi
3. Minor R.Kanmani
4. Sulochana
5. Subramanian ... Appellants/Petitioners

(Minor 3rd petitioner represented by next friend and natural Guardian her mother, the 1st petitioner)

Vs.

1. M.Rohini

2. National Insurance Company Ltd.,
No.66, Murugesa Naicker Complex,
Greams Road,
Chennai 600 006. ... Respondents /Respondents

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, to enhance the amount awarded in MCOP No.180 of 2019 dated 19.11.2020 on the file of Motor Accident claims Tribunal, (Chief, Small Causes Court) Chennai.

For Appellants : Mr. K.Varadhakamaraj

For Respondents : Mrs. R.Sreevidya for R2
No appearance for R1

J U D G M E N T

The wife, children and parents of one S.Rajendran, who died in a motor accident that occurred on 10.12.2018, are on Appeal terming the compensation of Rs.30,35,000/- awarded by the Tribunal as meagre.

2. The fact that Rajendran, died in the motor accident and that the accident occurred due to the negligence of the

driver of the Car bearing Registration No.TN-07-BQ-1098 is beyond dispute as the Insurance Company has accepted the award.

3. On the quantum, Mr.Varadhakamaraj, learned counsel appearing for the appellants would vehemently contend that the appellants had filed the Income Tax Return of the deceased which was filed on 23.07.2018, prior to the accident which shows that he had a returned annual income of Rs.3,00,576/- for the relevant period. Therefore, according to the learned counsel, the Tribunal should have adopted the said income as the annual income and the Tribunal was not correct in reducing the same to Rs.20,000/- per month. He would also point out that the amount awarded towards loss of love and affection and loss of consortium are on the lower side.

4. Mrs.R.Sreevidya, learned counsel appearing for the second respondent/ Insurance Company would submit that in the absence of any other supporting evidence, the Tribunal was justified in rejecting the Income Tax Return alone. The learned counsel for the Insurance Company would fairly concede that the amounts awarded for loss of love and affection and loss of consortium are actually on the lower side.

5. Though Ex.P8 would show that the income returned for the financial year 2017-2018 is Rs.3,00,576/-, there is no other supporting document. The returns for the previous years have not been produced. Therefore, I am unable to fault the Tribunal for having adopted a notional income of Rs.20,000/- per month. The Tribunal has also adopted 25% for future prospects and after deducting 1/4th for personal expenses and applying a multiplier of 13, the total loss of dependency has been arrived at Rs.29,25,000/-. I do not see any reason to modify or enhance the said amount.

6. However, the award of the Tribunal under the heads of love and affection and consortium are too low, as already pointed out there are five dependants namely, the wife, two children and the parents surviving the deceased. The parents and the children would be entitled to loss of love and affection, the Tribunal has calculated it at Rs.15,000/- per head and awarded Rs.75,000/- for all the five of them. The award for loss of love and affection is enhanced to Rs.40,000/- per head and the same is awarded to the children and the parents. Therefore, the total award under the head of loss of love and affection would be Rs.1,60,000/- instead of Rs.75,000/-. The award towards loss of consortium is also less, the wife is entitled to an award of Rs.40,000/- for loss of consortium.

7. In light of the above, the award of the Tribunal is modified and the compensation is granted as follows:

S.No.	Heads	Amount (Rs.)
1.	Towards Loss of Dependency	29,25,000/-
2.	Funeral Expenses	15,000/-
3.	Loss of Love and Affection (Rs.40,000/- each x 4)	1,60,000/-
4	Loss of Consortium	40,000/-
5	Loss of Estate	15,000/-
	Total	31,55,000/-

8. In view of the above, the Appeal is partly allowed. The Insurance Company is directed to deposit the enhanced compensation of Rs.1,20,000/- as per the modified award, with appropriate interest as granted by the Tribunal within a period of four (4) weeks from the date of receipt of a copy of the judgment. The entire enhanced compensation is directed to be paid to the first appellant namely the wife of the deceased. On such deposit, the first claimant is permitted to withdraw the entire enhanced compensation. In other respects the award of the Tribunal is confirmed There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Chief Judge,
   Motor Vehicle Accident Claims Tribunal,
   Small Causes Court, Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate SR.No.1710
+1cc to Mr.R.Sreevidhya, Advocate SR.No.1856

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KJ(CO)
GN(16/02/2022)