



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.M.A. No.1111 of 2018

1. Kumaravelu
2. Murugesan
3. Sivanantham

... Appellants

Vs.

1. Abdul Jabbar
2. The Oriental Insurance Company Limited
Represented by its Divisional Manager
1st Floor, Gopal Rao Library Building,
Town Hall Road, Kumbakonam Town.

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award in so far as it relates to the quantum and to enhance the quantum of compensation from Rs.3,00,000/- to Rs.6,00,000/- payable by the respondents to the appellants by suitably enhancing the compensation in the Award dated 07.04.2015 in M.A.C.T.O.P. No.69 of 2014 on the file of the District Judge, Presiding Officer, Motor Accident Claims Tribunal, Karaikal.

For Appellants : Mr.T.Sai Krishnan

For Respondents : R1 - Notice served, No appearance
Mr.D.Bhaskaran for R2



JUDGMENT

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The above Civil Miscellaneous Appeal is filed by the claimants for enhancement of compensation from Rs.3,00,000/- to Rs.6,00,000/- made in M.A.C.T.O.P. No.69 of 2014 dated 07.04.2015 on the file of the District Judge, Presiding Officer, Motor Accident Claims Tribunal, Karaikal.

2. The appellant are the claimants. The 1st respondent is the driver cum owner and the 2nd respondent is the insurer of the offending vehicle namely Bajaj Motorcycle.

3. The case of the claimants is that on 06.12.2013 at 6.30 p.m., the deceased Manimegalai, the wife of the 1st appellant, while returning from shop at Serumavilangai Main Road by walk, the 1st respondent who rode his Bajaj Motorcycle bearing Regn. No. PY-02-L-4451 in a rash and negligent manner, dashed against her. Due to the said impact, she sustained head injury and multiple injuries all over the body. She took treatment at Government Hospital, Thenoor and then at General Hospital, Karaikal and thereafter, she was taken to Thanjavur Medical College where she succumbed to injuries on



09.12.2013. Based on the complaint given by the 1st appellant, a case was registered against the 1st respondent.

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4. The claimants who are the husband and sons of the deceased, had filed a claim petition in M.A.C.T.O.P. No.69 of 2014 before the District Judge, Presiding Officer, Motor Accident Claims Tribunal, Karaikal, claiming compensation of Rs.10,00,000/- for the death of the deceased Manimegalai against the respondents who are the driver cum owner and the insurer of the offending vehicle.

5. Before the Tribunal, the 1st respondent remained ex-parte.

6. In order to substantiate the claim before the Tribunal, on the side of the claimants, 1 witnesses was examined as P.W.1 and 8 documents were marked as Ex.P.1 to Ex.P.8. On the side of the respondents, no oral and documentary evidence were let in.

7. The Tribunal, on hearing the arguments on either side and considering the materials, awarded compensation of Rs.3,00,000/- and



directed the 2nd respondent who is the insurer of the offending vehicle, to pay the compensation to the 1st appellant who is the husband of the deceased, with cost and interest at 7.5% per annum from the date of petition i.e. 24.03.2014 till payment and the same can be recovered by the 2nd respondent/Insurance Company from the 1st respondent who is the owner cum driver of the offending vehicle.

8. Aggrieved by the quantum of compensation, the claimants have filed the present appeal for enhancement of compensation.

9. The learned counsel for the appellant/claimants submitted that the quantum of compensation awarded by the Tribunal is extremely on the lower side and it does not reflect the "just compensation". The 1st appellant is the husband; 2nd and 3rd appellants are sons of the deceased. The Tribunal erred in holding that the 2nd and 3rd appellants are not the dependants of the deceased. Further, the deceased was working as agricultural Cooli and was earning more than Rs.300/- per day whereas, the Tribunal has fixed only Rs.5,000/- as the monthly income of the deceased, which is erroneous. The learned counsel further submitted that the Tribunal erred in deducting half of



the monthly income to arrive the compensation towards loss of dependancy and that the Tribunal ought to have deducted 1/3 since, the claimants who are the husband and sons of the deceased are the dependents.

10. The learned counsel appearing for the 2nd respondent/Insurance company submitted that the impugned Award of the Tribunal is substantiated by the records and thus, it is the “just compensation” and it needs no interference from this Court.

11. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent and perused the materials available on record.

12. It is the contention of the learned counsel for the appellants that the Tribunal failed to award compensation to the appellants 2 and 3 who are the sons of the deceased and also erred in deducting half of the monthly income of the deceased instead of deducting 1/3. Since the appellants 2 and 3 are married persons, they cannot be treated as dependants of deceased mother. Therefore, the contentions of the learned counsel for the appellants are not acceptable. Insofar as the fixation of monthly income of Rs.5,000/- by



the Tribunal is concerned, since the deceased was alleged to be an agricultural Coolie and there was also no proof to show that the the deceased was regularly earning Rs.300/- per day, the monthly income of Rs.5,000/- fixed by the Tribunal is reasonable.

13. A perusal of records shows that a sum of Rs.2,70,000/- has been awarded for loss of income by applying multiplier of '9' after deducting half of the amount from the monthly income of Rs.5,000/- (i.e. Rs.2,500x12x9). Further, Rs.10,000/- each, has been awarded under the heads of "Funeral Expenses", "Love and Affection" and "Transport Charges". Therefore, this Court finds that the compensation awarded by the Tribunal reflects "just compensation". Therefore, there is no merit in the appeal and the same is liable to be dismissed.

14. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs in the present appeal.

17.08.2023

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

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- 1.The District Judge, Presiding Officer,
Motor Accident Claims Tribunal, Karaikal.
- 2.The Section Officer,
VR Section, High Court, Madras.



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P.VELMURUGAN. J.

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