



WEB COPY



CMA.No.1608 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.02.2023

PRONOUNCED ON : 05.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.1608 of 2013

1. D.Kokila
2. S.Dayanethi (Died)

Appellants

Vs

1. E.Jagadeesan
2. ICICI Lombard General Insurance Company Limited
Chennai-2

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 09.01.2013, made in MCOP.No.447 of 2011, by the IV Small Causes Court (MACT) Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.R.Rathina Thara-R2
R1-No Appearance

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimants, against the judgement and decree, dated, 09.01.2013, made in MCOP.No.447 of 2011, by the IV Small Causes Court (MACT) Chennai.
2. The claimants, who are the mother and father of the deceased, namely, D.Mohan, have filed the claim petition before the Tribunal, seeking a



CMA.No.1608 of 2013

WEB COPY

compensation of Rs.15,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took place on 15.09.2010. The claim petition was resisted, on various grounds, by the 2nd Respondent Insurance Company, by filing a counter. The 1st Respondent, owner of the offending vehicle remained exparte. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P12 were marked.

3. Finding that the deceased died in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the 1st Respondent, the Tribunal has awarded a total compensation of Rs.3,57,000/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	312000.00
2	Loss of Love and Affection	40000.00
3	Funeral Expenses	5000.00
Total Compensation		357000.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimants.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.



CMA.No.1608 of 2013

6. According to the learned counsel for the Appellants, the Tribunal erred in not adding 40% towards future prospects while arriving at compensation under the head of loss of income and the multiplier applied by the Tribunal is also not proper no compensation was awarded under the head of loss of estate. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
7. Though it is found by the Tribunal that the deceased was aged 32 years old at the time of the accident, it erred in applying the multiplier of 8 and the proper multiplier is 16. The deceased was having educational qualification in Diploma Automobile Engineering and hence, the monthly income arrived at by the Tribunal at Rs.6,500/- p.m. is proper. However, compensation towards future prospects is not added, while arriving at the compensation under the head of loss of income and it is not proper. Hence, after adding 40% (Rs.2600/-) towards future prospects and deducting 50% towards personal expenses, the total loss the total loss of income would come to Rs.8,73,000/- (Rs.9100x12x16x50/100)).
8. The compensation of Rs.40,000/- towards loss of love and affection awarded by the Tribunal is retained. Further, a sum of Rs.15,000/- towards loss of estate is awarded. The compensation of Rs.5,000/- awarded towards funeral expenses is enhanced to Rs.15,000/- In all, the claimants are entitled to a total compensation of Rs.9,43,600/- with interest at 7.5% p.a. from the date of



CMA.No.1608 of 2013

the petition till the date of realisation.

WEB COPY

9. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimants are entitled to a total compensation of Rs.9,43,600/- (Rupees nine lakhs forty three thousand six hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency (6500x12*8*50%)	873600.00
2	Loss of Love and Affection	40000.00
3	Funeral Expenses	15000.00
4	Loss of Estate	15000.00
Total Compensation		943600.00

The 2nd Respondent Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the same with accrued interest, by filing proper application and by paying proper court fee for the enhanced compensation. No costs.

05.06.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm



WEB COPY



CMA.No.1608 of 2013

A.A.NAKKIRAN, J.

Srcm

To

1. The IV Small Causes Court (MACT) Chennai.
2. The Record Keeper, VR Section, High Court, Madras

Pre-Delivery Judgement in
CMA.No.1608 of 2013

05.06.2023