IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.1063 of 2022

1.Panjalai
2.Venkadesan
3.Manivel
4.Alamelu ... Appellants

Vs.

1.K.Arul

2.United India Insurance Company Ltd.,
Divisional Office, Aurobindo Road,
Block-19, Neyveli - 3.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acct, 1988, seeking to enhance the award passed by the Tribunal in MCOP.No.400 of 2019 dated 20.09.2021.

For Appellants : Mr.S.Udhayakumar

For Respondents : M/s.R.Rathna Thara for R2

JUDGMENT

On 27.09.2019, a 70 year old Kannan, a dhobi by avocation, was fatally knocked down by an ambulance bearing No.TN 31 BJ 7246. Seeking compensation, his four dependants approached the Tribunal in MCOP.No.400 of 2019. The Tribunal had reckoned the monthly income of the victim notionally at Rs.6,000/-, applied 5 as a multiplier and arrived at Rs.2,70,000/- as compensation for loss of dependency. After adding other conventional heads of compensation, it awarded Rs.3,35,000/- and the breakup is as below:

Sl. No.	**Description**	**Amount awarded by Tribunal (Rs)**
1.	Loss of income	2,70,000
2.	Loss of consortium	40,000
3.	Funeral expenses	15,000
4.	Transport expenses	10,000
	Total	**3,35,000**

2.Since the appellants preferred this appeal challenging the quantum awarded by the Tribunal, this Court considers that notice to the first respondent is not necessary.

3.Aggrieved by the perceived inadequacy of the compensation awarded, the claimants are now before the Court seeking enhancement.

4.Heard Mr.S.Udhayakumar, learned counsel for the appellants, and M/s.R.Rathna Thara, learned counsel appearing for the second respondent.

5.This Court weighed the rival submission, and it finds that the notional income can only be marginally increased from Rs.6,000/- to Rs.6,500/-, and applying 5 as a multiplier, deducting 1/4 towards his personal expenditure, the compensation under the head 'loss of dependency' is arrived at Rs.2,92,500/-. So far as other heads of compensation is concerned, this Court considers that the Tribunal had awarded a meaningless Rs.10,000/- each as compensation for loss of love and affection, which is described as loss of consortium in the award of the Tribunal. Since the accident had taken place in 2019, the compensation of Rs.44,000/- per head may have to be awarded, and accordingly the claimants are entitled to Rs.1,76,000/- for loss of love and affection. The other conventional heads are also tinkered within the contours of law, and they are indicated as below:

Sl. No	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)	Award confirmed or enhanced or granted
1.	Loss of income	2,70,000	2,92,500 (6,500 x 12 x 5)	enhanced
2.	Loss of love and affection	40,000	1,76,000 (44,000 x 4)	enhanced
3.	Funeral expenses	15,000	15,000	confirmed
4.	Transport expenses	10,000	12,000	enhanced
5.	Loss of estate	--	15,000	granted
	Total	**3,35,000**	**5,10,500**	**enhanced by Rs.1,75,500/-**

6.In fine, this appeal stands partly allowed, and the compensation is enhanced from **Rs.3,35,000/-** to **Rs.5,10,500/-**. The second respondent is now required to deposit the entire compensation amount with interest at 7.5% per annum from the date of the claim petition till the date of deposit, less any amount already deposited within a period of six (6) weeks from the date of receipt of a copy of this judgement. On such deposit being made, the appellants are permitted to withdraw the award amount, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No Costs.

20.12.2023

Anu
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To

The III Additional District Court, Virudhachalam

N.SESHASAYEE, J.

Anu

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