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C.M.A.No.3892 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023
CORAM

THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY

C.M.A.No.3892 of 2019

1. Thenmozhi
2. Venkatesan
Vs. ... Appellants

1. Elangovan
2. Narayana E Tech School,
represented by tis Correspondent,
Plot No.91/141/Shop D.
Sri Kapalieswarar Nagar, Neelankarai,
Chennai - 600 115

3. Bajaj Alliance General Insurance Company Limited ,
through its Manager,
Old No.276 & 277, New No.497 & 498,
Esanna Kattima Building, 5th Floor,
Poonamallee High Road,
Opp. to Tamil Nadu Medical Council,
Arumbakkam, Chennai - 600 106. ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and decree dated 11.01.2019 made in M.C.O.P.No.457 of 2016 on the file of the Motor Accident Claims Tribunal, (III Addl.District & Sessions Court, Virudhachalam at Cuddalore).



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For Appellants : Mr.V.S.Jagadeesan

For Respondents : Mr.Michael Visuvasam for R3
No appearance for R1 and R2.

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award of the Motor Accident Claims Tribunal, Virudhachalam, dated 11.01.2019 in M.C.O.P.No.457/2016. The Tribunal awarded a total compensation of Rs.14,45,800/-. Aggrieved by which, the present appeal is filed for enhancement of the compensation.

2. Learned counsel appearing on behalf of the appellants would submit that the deceased was aged 20 years at the time of accident and was 4th year student in Mechanical Engineering in SRM College of Engineering, Chennai. He also got offer by way of campus placement. However, the Tribunal had taken the notional income only as Rs.9,000/- and has awarded compensation. Therefore, he contested that the income should be taken as per the campus offer as pleaded by the appellants.

3. Per contra, Mr.Michael Visuvasam, learned counsel appearing on behalf of the Insurance Company would submit that nothing was placed on record with regard to the campus placement or any other order of appointment. In that view of the matter, the Tribunal has taken the



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notional income at the rate of Rs.9,000/- and awarded compensation and therefore, the award does not call for any interference.

4. We have considered the rival submissions and perusal the materials records of the case.

5. As rightly contended by the learned counsel for the Insurance Company, we find that the petitioners/ claimants have not filed any proof regarding any offer/placement of the deceased person. On the other hand, Exs.P16 and P17 were filed as proof of his undergoing education in SRM. College as 4th year Engineering student. In that view of the matter, we find that while taking the notional income, the trial court had taken only a sum of Rs.9,000/-. The accident had happened on 01.11.2016 and this Court, by order in C.M.A.Nos.2210 & 2218 of 2021 has already held that in respect of the relevant period notional income can be taken as Rs.15,000/-. It is made clear by the Hon'ble Supreme Court of India that the award of compensation can only be under four heads namely, loss of dependency, loss of estate, loss of consortium and funeral expenses. Therefore, by taking the notional income as Rs.15,000/-, the compensation is enhanced in the following manner.

Deceased monthly income : Rs.15,000/-



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plus: 40% future prospects	: Rs. 6,000/-

	Rs.21,000/-
Towards loss of dependency Rs.21,000 x 12 x 18 x 1/2 (as deceased was a bachelor)	: Rs.22,68,000/-
Towards Funeral Expenses	: Rs. 15,000/-
Towards Loss of Estate	: Rs. 15,000/-
Towards filial consortium 40,000 x 2	: Rs. 80,000/-

	<u>Rs.23,78,000/-</u>

6. In the result, the Civil Miscellaneous Appeal is allowed in part.

The award of the Tribunal in M.C.O.P.No.457/2016 is modified and enhanced as Rs.23,78,000/- (Rupees Twenty Three lakhs Seventy Eight Thousand only). The proportion of distribution shall be the same as ordered by the trial Court. The Insurance Company shall deposit the enhanced award amount, less the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants will be entitled to withdraw the entire sum. There shall be no orders as to costs.

(J.N.B,J.) (D.B.C, J.)

23.06.2023

Index : Yes / No

Internet : Yes/No

vsi



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The Motor Accident Claims Tribunal,
(III Add.District & Sessions Court, Virudhachalam
at Cuddalore).



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and
D.BHARATHA CHAKRAVARTHY, J.

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