



C.M.A.No.3358 of 2019

IN THE HIGH COURT OF JUDICATURE OF MADRAS

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DATED : 20.02.2023

CORAM:

THE HONOURABLE Mr. JUSTICE A.A.NAKKIRAN

C.M.A.No.3358 of 2019

1.K.Devika

2.K.Nathiya

... Appellants/Petitioners

Vs.

1.K.Sampath

2.The United India Insurance Company Limited,
Divisional Office, No.4 and 5,
Kandasamy Street,
Ranipet,
Vellore Distirct.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 04.08.2018 in M.C.O.P.No.375 of 2014 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Ranipet, Vellore District.



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For Appellants : Mr.C.Prabhakaran

For Respondents : Mr.D.Baskar for R2

Notice dispensed with for R1

JUDGMENT

The appellants have filed the above appeal aggrieved by the very meagre compensation that has been granted by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Ranipet, Vellore District, in M.C.O.P.No.375 of 2014 dated 04.08.2018.

2.The claimants are the wife and sister of the deceased Gnanachandran. It is the case of the claimants that on 30.11.2014 about 18.30 hours, the deceased Gnanachandran was travelling in a two wheeler, bearing Registration No.TN-73B-6739 on Kathiyavadi Colony Road, opposite to Sathiya Cell Phone shop,



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at that time the driver of the two wheeler bearing Registration No.TN-23AZ-0941 drove the two wheeler in a very rash and negligent manner without following the traffic rules and hit the two wheeler. Due to this accident, the deceased got multiple injuries and admitted in K.H. Appollo Hospital, Melvisharam and then taken to C.M.C. Hospital, Vellore for further treatment and thereafter, died in the hospital. The accident was occurred only due to the rash and negligent driving of the 1st respondent and he is the sole responsible for the same. At the time of death, the deceased who was aged 27 years, doing agricultural work and earning a monthly income of Rs.20,000/-. Therefore, the legal representatives of the deceased filed the Claim Petition seeking compensation of Rs.20,00,000/- for the death of Gnanachandran.



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3.The 1st respondent remained absent and were set *ex parte*.

The 2nd respondent had filed a counter statement disputing the manner of the accident and denying the age, income and occupation of the deceased. The 1st respondent has neither informed the 2nd respondent with regard to the accident nor furnished the particulars of the vehicle. The deceased was riding the two wheeler without wearing helmet at the time of the accident and driven the vehicle in the middle of the road in a rash and negligent manner and invited the accident. Further, this Claim Petition is bad for non joinder of necessary parties. The rider of the two wheeler alleged to be insured with the 2nd respondent had no driving license at the time of accident. Hence, the 2nd respondent is not liable to pay compensation to the petitioners. The compensation amount claimed is excessive.



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4.The Tribunal after considering the evidence on record came to a conclusion that the accident was occurred due to rash and negligent driving of the 1st respondent. Ultimately, the Tribunal has awarded a sum of Rs.10,32,100/- towards compensation with interest @ 7.5% per annum from the date of petition till the date of realisation to the claimants. Aggrieved by the very meagre compensation that has been granted by the Tribunal, the claimants are before this Court.

5.The learned counsel appearing for the appellants/ claimants would submit that the deceased was M.C.A. Degree holder studied in Anna University and also working in a Private company. Subsequently, due to death of his father, the deceased was return to native place and looking after the agriculture work and family maintenance and thereby earning a sum of



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Rs.20,000/- per month. But, the Tribunal has fixed the monthly income of the deceased at Rs.6,000/- which is lower than the notional income for an M.C.A. Degree holder. Hence the fixing of monthly income of the deceased is liable to be enhanced reasonably. He would submit that the deceased was owning JCB Machines and employed 12 workman for his business activities and agricultural work regularly. Therefore, fixing of the monthly of Rs.6,000/- is liable to be enhanced. Further, no amount is awarded under the head of loss of love and affection, loss of estate and transport charges. He would submit that the Tribunal has granted compensation under various heads are very low and therefore, the Award has to be enhanced.

6.Per contra, the learned counsel appearing for the 2nd respondent would submit that this is a very reasonable award and does not warrant a reconsideration.



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7. Heard the learned counsel appearing on either side and perused the papers.

8. Admittedly, the deceased was an MCA Degree holder and doing agricultural work. As per the decision of the Hon'ble Supreme Court, the notional income can be enhanced to a sum of Rs.10,000/- per month to which future prospects of 40% is to be added. Therefore, the monthly income would come to Rs.14,000/-. The annual income would work out to a sum of Rs.1,68,000/- ($\text{Rs.14,000/-} \times 12 = \text{Rs.1,68,000/-}$). After deducting $\frac{1}{3}^{\text{rd}}$ amount towards his personal expenses, the annual contribution to the family would be a sum of Rs.84,000/-. Considering his age, the appropriate multiplier to be adopted is 17. Therefore, the loss of dependency to the family would be a sum of Rs.14,28,000/- ($\text{Rs.84,000/-} \times 17 = \text{Rs.14,28,000/-}$). The



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appellants/claimants are entitled to a sum of Rs.40,000/- each towards loss of love and affection. Therefore, a sum of Rs.80,000/- is granted under the head of loss of love and affection to the mother and sister. The Tribunal has awarded a sum of Rs.1,60,300/- towards Medical Expenses. A sum of Rs.15,000/- granted under the head of funeral expenses. No amount has been granted under the head of loss of estate. Hence, a sum of Rs.15,000/- is granted towards loss of estate. The enhanced compensation would be a sum of Rs.16,98,300/-. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.8,56,800/-	Rs.14,28,000/-	Enhanced
2.	Loss of love and affection to the	-	Rs.80,000/-	Enhanced



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
	two children (Rs.40,000/- x 2)			
3.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Loss of estate	-	Rs.15,000/-	Enhanced
5.	Medical Expenses	Rs.1,60,300/-	Rs.1,60,300/-	Confirmed
	TOTAL	Rs.10,32,100 /-	Rs.16,98,300/-	

9. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.16,98,300/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.375 of 2014 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Ranipet, Vellore District, within a period of four weeks from the date of receipt of



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a copy of this order, if not deposited earlier and thereafter, recover the said amount from the 1st respondent, the owner of the vehicle. On such deposit, the claimants are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by the Tribunal, by making necessary applications.

The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs.

20.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps



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To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Ranipet,
Vellore District.



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A.A.NAKKIRAN, J.

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