



C.M.A.(MD).No.825 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.11.2023

Delivered on: 10.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

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1.A.Selvaraj

2.S.Lalitha

... Appellants / Petitioners

Vs.

1.S.R.S.Travels Bangalore,

Thorough its Proprietor,

K.T.Rajadhekar,

Office at No.321-3, TSP Road,

Kalaisipalayam,

Bangalore – 560 002.

Karnataka State.

2.M/s.New India Assurance Co. Ltd.,

Through its Divisional Manager,

Office at No.70 feet Road,

BSNL Buildings, Ellis Nagar,

Madurai – 625 001.

... Respondents / Respondents



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Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 20.09.2019, in M.C.O.P.No.1140 of 2017, on the file of the Motor Accident Claims Tribunal / IV Additional District Judge, Madurai.

For Appellant : Mr.K.Kumaravel

For Respondents : Mr.R. Subramanian for R1

: Mr.J.S.Murali for R2

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

This Appeal is at the instance of the claimants seeking enhancement of the award of compensation given to them by the Tribunal towards compensation for the death of their son in a motor accident on 10.05.2017.

2. The appellants sought for a compensation of Rs.80,00,000/- from the respondents alleging that the first respondent's bus driven by its authorised driver, drove the vehicle insured with the second respondent, in a rash and negligent manner and consequently, the respondents were jointly and severally liable to compensate the appellants for the unfortunate



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demise of their son – Deepanraj.

3. Before the Tribunal, the first claimant examined himself as P.W.1 and an eye witness viz., Atham Ali as P.W.2 and one Nasar Hussain was examined as P.W.3, to prove the employment as well as the income of the deceased and 34 documents were marked as Ex.P1 to Ex.P34. On the side of the respondents, no oral or documentary evidence was adduced.

4. The Tribunal awarded a compensation of Rs.54,25,000/-, payable together with interest at 7.5% per annum, finding that the first respondent's driver drove the vehicle in a rash and negligent manner and dashed against the motor cycle, which the deceased Deepanraj was riding and that the respondents were therefore jointly and severely liable to compensate the appellants.

5. The Tribunal fixed the age of the deceased as 26, adopting a multiplier at '17' and fixing the income of the deceased at Rs.37,500/- and after applying 40% (Rs..15,000/-) towards future prospects and also awarding Rs.15,000/- towards loss of estate and funeral expenses respectively and Rs.40,000/- towards filial consortium to the first



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appellant, directed the respondents to pay a compensation at Rs. 27,12,500/- each together with proportionate interest and costs.

6. Aggrieved by the said award of the Tribunal, the claimants have come up with the present Civil Miscellaneous Appeal, mainly attacking the finding with regard to the monthly income of the deceased and also non provision of any amount to the mother under the head of 'love and affection' and also not awarding reimbursement of medical expenses, despite production of Ex.P9.

7. We have heard K.Kumaravel, learned counsel for the appellant, Mr.P.Bala Subramanian, learned counsel for the first respondent and Mr.J.S.Murali, learned counsel for the second respondent / Insurance Company. We have perused the records and also the award of the Motor Accident Claims Tribunal, which is under challenge.

8. After going through the award of the Tribunal and the oral and documentary evidence available on record, we do not find that the award requires interference with regard to fixing of liability or with regard to the

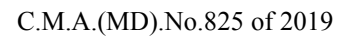


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age, future prospects and award of compensation under conventional heads, except insofar as non awarding of any amount to the mother of the deceased - second appellant, under the head of “loss of love and affection”. A sum of Rs.40,000/- is therefore awarded to the second appellant towards loss of love and affection.

9. The main contention raised in the appeal is with regard to the monthly income of the deceased. The learned counsel for the appellants would submit that the employer – P.W.3 had been examined and Ex.P34 has marked to evidence that the gross salary of the deceased is Rs.54,300/- and that despite the same, the Tribunal has erroneously fixed Rs.37,500/- as the salary.

10. We have perused Ex.P34 – salary slip and also the evidence of P.W.3. Ex.P34 is the salary slip for the month of April – 2017. The accident occurred in May – 2017 and therefore, at the outset there is no infirmity in the Tribunal relying on Ex.P34 for arriving at the monthly income of the deceased. The learned counsel for the appellants would state that the said Ex.P34 being the pay slip issued by the employer clearly



11. Insofar as the medical expenses, the Tribunal has not taken into account the amount of Rs.20,000/- paid to the hospital, which is substantiated by a receipt issued on the date of the accident. The appellants / respondents are therefore entitled to the said amount of Rs.20,000/- also.



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12. In fine, the instant Civil Miscellaneous Appeal stands partly allowed, by awarding a sum of Rs.40,000/- towards love and affection for the second appellant, and a sum of Rs.20,000/- towards medical expenses in addition to the compensation awarded by the Tribunal. In all other respects, the award of the Tribunal is hereby confirmed. The compensation is enhanced from Rs. 54,25,000/- to 54,85,000/-. The appellants /claimants, are entitled to Rs.27,42,500/- each, with proportionate interest and costs.

13. The respondents are directed to deposit the enhanced award amount of Rs.54,85,000/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, together with costs awarded by the Tribunal, less any amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment.

14. On such deposit being made, the appellants herein / claimants are permitted to withdraw their respective award amount along with interest and costs, as apportioned by this Court, less the amount, if



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any, already withdrawn by them, after filing appropriate applications before the Tribunal. There shall be no order as to costs in the present appeal.

(T.K.R.J.) & (P.B.B.J)
10.11.2023

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Index: Yes/No
Neutral Citation: Yes/No
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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

Ls

To

- 1.The Motor Accident Claims Tribunal,
VI Additional District Court,
Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

judgment in
C.M.A.(MD).No.825 of 2019

10.11.2023