



CMA No.2163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2163 of 2023

1.Nagalakshmi

2.Manivasagam (minor)
Rep.by his next friend mother
Nagalakshmi

.. Appellants

.Vs

1.Rajamanickam

2.The Branch Manager
United India Insurance Co.,Ltd.,
Karaikkal.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation amount awarded by the Tribunal in MACTOP No.42 of 2013 dated 23.01.2015, on the file of Motor Accidents Claims Tribunal cum District Judge at Karaikal.

For Appellants : Mr.T.Saikrishnan

For Respondents : Mr.D.Bhaskaran
for R2



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JUDGMENT

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The claimants who are the mother and son of the deceased not being satisfied with the quantum of compensation fixed by the Tribunal in MACTOP No.42 of 2013 dated 23.01.2015, have filed the present appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Selvaraj was working as a load man under the 1st respondent. On 21.7.2012, the 1st respondent had driven the vehicle and it was loaded with old beer bottles. The deceased who was the load man was attempting to climb upon the Van and unfortunately he fell down and the beer bottles got unpacked and fell on him as a result of which, he sustained grievous injuries and he died on 22.07.2012. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3.The Tribunal on considering the facts and circumstances of the case found that the case in hand cannot be decided under Section 166(1) of the Motor Vehicles Act, 1988 and accordingly, the claim petition



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was converted into one under the Workmen Compensation Act, 1923.

4.The Tribunal thereafter proceeded to fix the total compensation at Rs.7,42,800/- under various head as follows:

Sl.No	Compensation awarded under the head	Amount (in Rs.)
1.	For loss of dependency (Rs.5000 x 135.56)	6,77,800/-
2.	Funeral expenses	10,000/-
3.	Love and affection	20,000/-
4.	Consortium for petitioner no.1 only	25,000/-
5.	Transport Charges	10,000/-
	Total	7,42,800/-

5.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

6.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeal



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before this Court.

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7. Heard Mr.T.Saikrishnan, learned counsel for the appellants and Mr.D.Bhaskaran, learned counsel for R2 – Insurance Company.

8. This Court has carefully considered the submissions made on either side and perused the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

9. In the considered view of this Court, the accident had taken place in the year 2012 and at that point of time, the maximum ceiling was at Rs.8,000/-. However, the Tribunal has fixed Rs.10,000/- as monthly wages and has taken 50% of the monthly wages and calculated the 'loss of dependency'. Therefore, the amount that was taken into consideration by the Tribunal is slightly on the higher side. That apart, the Tribunal had also granted compensation under various heads as if the Tribunal was dealing with a Motor Vehicles Claims Petition. In view of the same, there is no scope for enhancing the compensation that has been granted by the Tribunal.



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10. In view of the above, the civil miscellaneous appeal stands dismissed. If the amount has not been deposited by the 2nd respondent till now, the 2nd respondent shall deposit the same within a period of four weeks from the date of receipt of copy of the judgement and on such deposit, the appellants shall be entitled to withdraw the same. No costs.

05.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

1. Motor Accidents Claims Tribunal
cum District Judge, Karaikal.
2. The Branch Manager
United India Insurance Co., Ltd.,
Karaikkal.

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N. ANAND VENKATESH., J

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