



C.M.A(MD)No.399 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.399 of 2014

1.Rajavalli
2.C.Shanmugam

... Appellants

Vs.

1.P.Sathish Isakki
2.S.Isakki Muthu

3.The Branch Manager,
National Insurance Company Limited,
Tirunelveli.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award, dated 28.02.2013, made in M.C.O.P.No. 315 of 2011 on the file of Principal Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi, Tirunelveli, for enhancing the compensation amount.

For Appellants : Mr.D.Srinivasaragavan
For R1 : Mr.T.Selvakumaran
For R2 : Mr.S.Packiyamuthu
For R3 : Mr.J.S.Murali



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C.M.A(MD)No.399 of 2014

JUDGMENT

The claimants have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2.It is a case of fatal. The contention of the claimants is that when the claimants have clearly deposed before the Court that the deceased was an ITI Diploma holder and was working in a windmill and they had also produced the salary certificate, the Tribunal ought to have fixed the future prospects as well. On perusing the impugned order, it is seen that the Tribunal has not fixed the future prospects. Therefore, this Court is inclined to grant 30% future prospects.

3.The next contention of the claimants is that the Tribunal has taken the age of the parents while fixing the multiplier which is erroneous. The multiplier must be fixed based on the age of deceased. In the present case, the age of the deceased was 23 hence, the applicable multiplier is “18”. Therefore, this Court is fixing the multiplier as “18” for calculating the compensation.

4.The next contention of the claimants is that for loss of love and affection,



C.M.A(MD)No.399 of 2014

the Tribunal has granted only Rs.20,000/- but there are two claimants, hence, this Court is granting Rs.40,000/- to each claimant under the head of loss of love and affection. On this ground, this Court is enhancing the compensation for loss of love and affection from Rs.20,000/- to Rs.80,000/-. As far as funeral expenses is concerned, the Tribunal has fixed Rs.5,000/- but this Court is enhancing the same to Rs.15,000/-.

5.The learned Counsel for the Insurance Company submitted since the claimants have preferred this appeal belatedly, this Court may not grant interest. This Court is of the considered opinion that rather than declining the interest in entirety, 50% of the interest may be deducted. Hence, this Court is reducing the interest from 7.5% to 3.75% (i.e., 50% of 7.5%).

6.The enhanced award amount granted by this Court is as under:

i.	Monthly income of the deceased	Rs.4,500/-
ii.	Future prospects (30%)	Rs.1,350/-
Total		Rs.5,850/-
50% of income deducted towards personal expenses		50% of Rs.5,850/- =Rs.2,925/-



Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs.2,925/-*12*18)	Rs.6,31,800/- (enhanced)	Rs.2,97,000/-
2.	Loss of Love and Affection (Rs.40,000/- * 2)	Rs.80,000/- (enhanced)	Rs.20,000 /-
3.	Transport Expenses	Rs.5,000/- (confirmed)	Rs.5,000/-
4.	Funeral Expenses	Rs.15,000/- (enhanced)	Rs.5,000/-
Total compensation granted by this Court		Rs.7,31,800/- (enhanced)	Total = Rs. 3,27,000/-

7.The 3rd respondent Insurance Company is directed to deposit Rs. 7,31,800/- (Rupees Seven Lakh Thirty One Thousand and Eight Hundred only) with interest at the rate of 3.75% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their equal shares with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee.



C.M.A(MD)No.399 of 2014

WEB COPY

8. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

1. Motor Accident Claims Tribunal /
Principal Sub Court,
Tenkasi, Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.399 of 2014

S.SRIMATHY, J.

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C.M.A(MD)No.399 of 2014

26.04.2024