



C.M.A.(MD).No.980 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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1. Pushpalakshmi

2. Minor.Sivaniga

3. Tamilarasi

4. Vanaraj

... Appellants/Petitioners

(Minor 2nd appellant through her
Mother and next guardian 1st appellant
herein)

-vs-

1. The Managing Partner,
M/s.Aghin Roadways,
Office at No.MMC 4/2155/2,
Mundok Road, Mahe,
Pondicherry – 673 310.

2. The Branch Manager,
Reliance General Insurance Company Limited,
Office at 2nd Floor,
Citadel Arcade, R.C.Road,
Opposite to Tagore Centenary Hall,
Calicut – 673 032.

... Respondents/ Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree made in M.C.O.P.No. 1227 of 2013 on the file of the Motor Accident Claims Tribunal, (II Additional District Court), Tirunelveli, dated 07.09.2015.

For Appellants : Mr.T.Selvakumaran

For R2 : Mr.V.Sakthivel

For R1 : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.1227 of 2013, on the file of the Motor Accident Claims Tribunal, (II Additional District Court), Tirunelveli, seeking enhancement of compensation.

2. According to the claimants, the deceased was Police Constable, aged about 32 years and he was receiving a monthly salary at Rs.17,706/- (Rupees Seventeen Thousand Seven Hundred and Six only), while he passed away in an accident on 10.09.2013. They have prayed for a total compensation of Rs.50,00,000/- (Rupees Fifty Lakhs only).



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3. The Tribunal had ultimately fixed the compensation at Rs.34,55,552/- (Rupees Thirty Four Lakhs Fifty Five Thousand Five Hundred and Fifty Two only). Challenging the lesser fixation of the award amount, the present appeal has been filed by the claimants.

4. According to the learned counsel appearing for the appellants, though the Tribunal has properly fixed the monthly income of the deceased person, but has not properly adopted the procedure to arrive at the final compensation. He further contended that the income tax for the relevant period is 'nil' up to income of Rs.2,00,000/-. Between Rs.2,01,000/- and Rs. 5,00,000/- interest at the rate of 10% which amount exceeds two lakhs. After deducting the income tax 1/4th has to be deducted towards personal expenses and multiplier of “16” has to be adopted. According to him, loss of consortium should have been enhanced. Hence, he prayed for allowing this appeal.

5. Per contra, the learned counsel appearing for the second respondent/ Insurance Company had contended that the brother of the deceased was 31 years old at the time of the accident and therefore, he cannot be considered to



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be a dependent. In such view of the matter, the number of dependents would get reduced from 4 to 3 and therefore, instead of 1/4th to 1/3rd to be deducted towards personal expenses. He further contended that there is no further scope for enhancement of compensation. Hence, he prayed for sustaining the award passed by the Tribunal.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The Tribunal has taken the monthly income of Rs.17,706/- and added 50% towards future prospectus and has deducted a sum of Rs.4,000/- per year towards income tax. The Tribunal without considering the income tax liability for the relevant year of the accident has passed an award.

8. In view of the above said facts, the award of the Tribunal is reassessed as follows:

Monthly Income : Rs.17,706/-

Future Prospectus

Rs.8,853/- added 50% (Rs.17,706+ Rs.8,853)= Rs.26,559/-



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Income per annum (Rs.26,559/-x12)
at Rs.3,18,708/- deduction towards income tax at Rs.11,870/-

Income receivable by the deceased person Rs.3,06,838/-
1/3rd deducted towards personal expenses : 2,04,558.60/-

Loss of dependency will be at
(Rs.2,04,558.60 x 16) : Rs.32,72,928/-

Loss of love and affection
(Rs.40,000 x 4) : Rs. 1,60,000/-

Funeral Expenses : Rs. 15,000/-

Loss of Estate : Rs. 15,000/-

Total : **Rs.34,62,928/-**

9. The award of the Tribunal is enhanced from Rs.34,55,552/- to Rs.34,62,928/- (Rupees Thirty Four Lakhs Sixty Two Thousand Nine Hundred and Twenty Eight only) and the enhanced amount will carry interest at the rate of 7.5% per annum, from the date of claim petition till the date of realization. The second respondent/ Insurance Company is directed to deposit the enhanced award amount along with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order, reducing the amount, if any, already deposited. On such deposit being made, the fourth appellant/ fourth claimant is entitled to a sum of Rs.40,000/-



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(Rupees Forty Thousand only), the appellants 1 and 2/claimants 1 and 2 are each entitled to 40% of the remaining award amount (80%) and the third appellant is entitled to 20% of the same. In respect of the minor claimant/2nd appellant, the amount shall be deposited in a Nationalized Bank till she attains majority and the guardian of the minor claimant is permitted to withdraw the interest once in three months. The claimants are hereby directed to pay the deficit Court fee, if any, before drafting of the decree.

10. With the above said observation, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. There shall be no order as to costs.

24.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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1. The Motor Accident Claims Tribunal,
(II Additional District Court),
Tirunelveli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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