

(2017) 10 MAD CK 0028
In the Madras High Court
Case No : 791 of 2017

V.Rani

APPELLANT

Vs

A.Joseph Tamilvanan, & Ors.

RESPONDENT

Date of Decision : 27-10-2017

Acts Referred:

Citation : (2017) 10 MAD CK 0028

Hon'ble Judges : G.R.Swaminathan

Bench : SINGLE BENCH

Advocate : G.R.Swaminathan

Final Decision : Allowed

Judgement

1. The mother of the deceased filed this appeal seeking enhancement. He died on 07.01.2008. He was travelling as a pillion rider when an Auto

Rikshaw belonging to the first respondent herein and insured with the second respondent dashed against the two wheeler.

2. In the accident, the son of the appellant sustained injuries and later died. The Tribunal fixed the negligence on the driver employed by the first

respondent. Since the driver did not possess valid driving licence, the Tribunal held that the first respondent alone was liable to pay compensation.

The second respondent was directed to pay the compensation amount to the claimants and recover the same from the first respondent. This aspect

regarding negligence and liability has attained finality. The Tribunal awarded a sum of Rs.6,42,000/- with interest. Contending that the said amount

was not sufficient, this Appeal has been filed.

3. The Tribunal has taken the monthly income at Rs.6,000/-. Even though income proof was not furnished, evidence was let in to show that the

deceased was carrying on welding business. Therefore, it would be reasonable to fix the monthly income at Rs. 10,000/-. The deceased was a bachelor and therefore he would have given 50% to the appellant herein per month. Considering the age of the appellant herein, the multiplier 14 can be adopted. Therefore, the pecuniary loss is assessed at $5,000 \times 14 \times 12 = 8,40,000/-$. For love and affection a sum of Rs. 50,000/- can be given. Towards funeral expenses a sum of Rs. 25,000/- can be awarded. Thus, the claimant is held entitled to Rs. 9,15,000/-.

4. The compensation payable to the appellant is enhanced from Rs.6,42,000/- to Rs.9,15,000/-. The award dated dated 04.11.2016 passed in

M.C.O.P.No.1105/2009 on the file of the Motor Accidents Claims Tribunal cum Principal District Court, Trichy is accordingly modified.

5. The second respondent insurance company is directed to deposit the entire award amount with 7.5 % interest from the date of petition till the

date of realisation along with costs, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already

deposited, if any. On such deposit, the appellant is permitted to withdraw the entire award amount, by filing proper application before the Tribunal,

less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

6. This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.