

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 319 of 2015

1. Basira Bee
 2. A. Ameenuddin
 3. A. Yasmeen
 4. A. Ayisha
 5. A. Oamar Sultana
 6. Arifa
 7. A. Bajira
- ...Appellants/Petitioners

Vs.

1. K. Kalandar
(Set ex parte in the Trial Court)
 2. M/s. United India Insurance
Company Limited,
Vellore.
- ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 13.10.2010 passed in MACT O.P. No. 100 of 2008 by the Motor Accidents Claims Tribunal (Additional District Judge, FTC II), Ranipet.

For Appellants :: Mr.M. Swamikkannu

For Respondents:: Mr.C.R. Krishnamoorthy
for R2

सत्यमेव जयते
J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants, aggrieved over the quantum of Rs.2,60,000/- awarded by the Tribunal for the death of one A. Abdul Raheem, the husband of the 1st respondent and the father of other respondents, in the accident, which occurred on 23.11.2006, when he was hit by a motor cycle, while walking on the road.

2. Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent.

3. The Tribunal, considering the avocation of the deceased as a

priest in a local mosque, determined the monthly income at Rs.3000/-. However, the said amount determined by the Tribunal is too low. Hence, this Court re-determines the monthly income of the deceased at Rs.4500/-. After deducting one-third towards his "Personal Expenses", the "monthly contribution to the family" comes to Rs.3000/- [(Rs.4500/- (-) $\frac{1}{3}$ (Rs.4500/-)] The deceased was aged about 56 years at the time of accident and as per the judgment of the Honourable Apex Court in Sarla Verma's case (2009 2 TN MAC 1 (SC)), the appropriate multiplier to be adopted is 9. Accordingly, applying the said multiplier, "Loss of Income" is determined as hereunder:

Loss of Income :: Rs.3000 x 12 x 9
:: Rs.3,24,000/-.

The sum of Rs.5000/- awarded towards "Loss of Consortium" is too low and the same is enhanced to Rs.50,000/- following the judgment of the Honourable Apex Court in Rajesh and others V. Rajbir Singh and others (2013 3 CTC 883). The amount of Rs.10,000/- awarded towards "Loss of love and affection" is too negligible and the same is enhanced to Rs.60,000/- as the number of children of the deceased is six. The amount awarded towards "Funeral Expenses", namely, Rs.5000/- is enhanced to Rs.15,000/- and a sum of Rs.10,000/- is awarded towards "Transportation Expenses". Hence, the total compensation payable to the claimants works out to Rs.4,59,000/- rounded off to Rs.4,50,000/-. The rate of interest awarded by the Tribunal at 9% per annum is confirmed. However, the enhanced amount will carry interest @ 7.5% per annum. The Civil Miscellaneous Appeal is partly allowed. No costs.

4. The 2nd respondent Insurance Company is directed to deposit the entire amount, with interest, as per the modified award passed by this Court, after deducting the amount already deposited, if any, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of two weeks thereafter. It is needless to state that the appellants are not entitled to interest on the award amount, for the delay period of 442 days, as per the order of this Court dated 16.02.2015.

24.02.2015

For Being Mentioned

CMA.319 of 2015:- This Case having been posted on Monday, the Twenty Seventh day of April 2015, under the caption "For Being Mentioned" pursuant to the order of this Court dated 24.02.2015, and made herein, and in the presence of Mr.C.R.Krishnamoorthy, Advocate for the Respondent 2, the Court made the following Order:-

This Appeal is listed today under the caption "for being mentioned", at the instance of the learned counsel for the second

respondent / Insurance Company.

2. The learned counsel appearing for the second respondent submitted that this Court, by judgement, dated 24.02.2015 enhanced the compensation from Rs.2,60,000/- to Rs.4,50,000/-. He further submitted that though the Trial Court directed the second respondent therein to pay the compensation to the claimants and recover the same from the first respondent, the said aspect was not incorporated in the aforesaid order of this Court.

3. In view of the above submission, and the fact that the Trial Court has directed the second respondent to pay the compensation to the claimants and directed to recover the same from the owner of the vehicle/first respondent, based on evidence, the same is confirmed. Hence, the findings rendered by the Trial Court regarding pay and recover aspect is hereby confirmed.

4. Since the aforesaid judgement of this Court dated 24.02.2015 is modified to the said extent, the second respondent/Insurance Company is granted time to deposit the modified award amount within a period of six weeks from the date of receipt of copy of this modified order, after deducting the amount already deposited, if any.

27.04.2015

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv
To
The Motor Accident Claims Tribunal,
(Additional District Judge,
Fast Track Court II, Ranipet

+ 1 cc to Mr.C.R. Krishnamoorthy Advocate SR.10253
+ 1 cc to Mr.M. Swamikkannu, Advocate SR.9950

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