

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.611 of 2015

1.Manikandan
2.Ramkumar
3.Janaki

...Appellants/Petitioners

vs.

1. T.Gunalan

2. United India Insurance Co. Ltd.,
No.134, Greaves Road,
Siling Building,
Chennai - 6.

3. Vasu

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.04.2014 passed in M.A.C.T.O.P.No.2835 of 2012 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellant : Mr.M.Malar

For Respondents : Mr.R.Ravichandran [R2]

JUDGMENT

This appeal has been preferred by the claimants aggrieved over the quantum of Rs.8,29,750/- as compensation for the death of one Sathiya aged about 40 years, a Cook, claimed to have earned a sum of Rs.12,500/- per month, in the accident occurred on 28.02.2012.

2. Heard Mr.Malar, learned counsel appearing for the appellants and Mr.R.Ravichandran, learned counsel appearing for the second respondent.

3. Learned counsel for the appellants submits that an Ex-MLA, who employed the deceased, categorically stated in his evidence that the deceased was paid a sum of Rs.8,500/- p.m. and also Rs.4,000/- p.m. by Alamelu Venkatraman, totalling a sum of Rs.12,500/-.

4. The Tribunal only fixed Rs.4,500/- as the monthly income of the deceased. The said determination of Rs.4,500/- as monthly income is on the lower side. The responsibilities and the work of a home maker cannot be underestimated, that too, when the deceased was living separately along with her children without her husband, who got separated. In such circumstances, the responsibility of the deceased was more.

5. Considering the fact that the accident occurred on 28.02.2012, it is appropriate to fix the monthly income at Rs.6,000/-, which is in consonance with the decision of the Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459 wherein for a vegetable vendor, a sum of Rs.6,500/- was fixed as monthly income and 50% was added as future prospects, totalling a sum of Rs.9,750/-. Following such judgment, this Court fixes the monthly income of the deceased at Rs.6,000/- and adds 50% towards future prospects as the deceased was aged 40 years. Hence, the monthly income would be Rs.9,000/- [Rs.6,000/- + Rs.3,000/-].

6. The size of the family of the deceased is three and therefore, $1/3^{\text{rd}}$ has to be deducted towards personal expenses. If $1/3^{\text{rd}}$ is deducted, the monthly contribution would be Rs.6,000/- [Rs.9,000 - Rs.3,000/-]. The proper multiplier to be applied in this case is '15'. The loss of income is calculated as follows: $[(Rs.6,000 + Rs.3,000) - Rs.3,000/-] \times 12 \times 15 = Rs.10,80,000/-$

7. A sum of Rs.25,000/- awarded towards loss of love and affection is too low and the same is enhanced to Rs.60,000/- as per the judgment of the Honourable Supreme Court in Rajesh & Others Vs. Rajbir Singh & Others reported in 2013 (3) CTC 883; Rs.10,000/- awarded towards funeral expenses is enhanced to Rs.25,000/- and Rs.5,000/- awarded towards transport expenses is enhanced to Rs.10,000/-. The interest at the rate of 7.5% p.a., awarded by the Tribunal is confirmed.

8. This Civil Miscellaneous Appeal is allowed by enhancing the award of compensation from 8,29,750/- along with interest @ 7.5% p.a. to Rs.11,75,000/- along with interest at 7.5% p.a. No costs.

Since the second respondent insurance company had already deposited the amount due under the award passed by the Tribunal, the second respondent insurance company is directed to deposit the balance amount as per the enhanced award passed by this Court within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants are permitted to withdraw the entire amount as per their share fixed by the Tribunal, after adjusting the amount, if any already withdrawn. The appellants/claimants are directed to pay the additional Court fee for the enhanced amount within two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

gm

To

The Chief Judge,
The Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

1 CC to Mr.M.Malar, Advocate SR.No. 16854

1 CC to Mr.R.Ravichandran, Advocate SR.No. 17149

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KK (CO)
PSI (21.04.2015)

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