

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.3439 of 2014

1.V.Vijaya
2.L.C.Venugopal ... Appellants/ Petitioner

Vs.

1.Rasheeda
2.Future General India Insurance Co. Ltd.,
First Floor, North Wing,
Karumuthu Nilayam, 192, Annasalai,
Chennai-2. Respondents/ Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the order dated 07.03.2014 in M.C.O.P.No.1581 of 2010 on the file of the Motor Accidents Claims Tribunal (Special Sub Judge I) Chennai.

For Appellants : Mr.S.Partheeban

For Respondents : Mrs.Harini for
Mr.N.Vijayaraghavan for R2
R1-Ex-parte

JUDGMENT

The appeal has been preferred by the claimants for the death of his son one V.Prakash in the accident occurred on 17.04.2009, when he was travelling in a car, which was driven rash and negligently and dashed against the parked container lorry. Therefore, claim petition.

2. On enquiry, the Tribunal found that the accident occurred because of the rash and negligent driving of the car and awarded a sum of Rs.6,11,000/-. Aggrieved with the quantum of compensation awarded, the appellants/claimants are before this Court.

3. Heard Mr.S.Partheeban, learned counsel appearing for the appellants and Mrs.Harini, representing Mr.N.Vijayaraghaven, learned counsel appearing for the 2nd respondent/Insurance Company. The only question to be decided is as to whether the quantum of compensation is adequate or not.

4. The learned counsel appearing for the appellants would submit that the victim already completed Teacher Training Course and he was earning about Rs.8,000/- per month. However, the Tribunal fixed the monthly income at Rs.7,000/-. According to the learned counsel for the appellants, the monthly income fixed by the Tribunal is very low and hence, he seeks for enhancement of the award.

5.The learned counsel for the 2nd respondent would submit that already the monthly income determined by the Tribunal is on the higher side and therefore, no more enhancement is required.

6. The Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459 determined a sum of Rs.6,500/- as monthly income for a vegetable vendor, who sustained injury in the accident occurred on 14.02.2008. In this case, the accident occurred on 17.04.2009. Therefore, this Court is inclined to follow the determination made in the aforesaid judgment. Accordingly, a sum of Rs.6,500/- is taken as monthly income and 50% is added towards future prospects by following the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1 and therefore, the loss of income is determined at Rs.9,750/-.

7. The age of the deceased was 23 years and therefore, 50% is required to be deducted towards personal expenses. After deduction, the loss of income would be Rs.4,875/-. As per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, the age of the deceased alone has to be taken into consideration for determination of multiplier and accordingly, for the age of 23, the appropriate multiplier is 18 and the loss of income is calculated as follows:

$$6,500+50\%-50\% \times 12 \times 18 = 10,53,000/-$$

8. The claimants lost their only son. Therefore, Rs.50,000/- awarded by the Tribunal towards loss of love and affection is sustained as reasonable. The Tribunal was awarded a sum of Rs.15,000/- towards funeral expenses, which is too low and the same is enhanced to Rs.25,000/-. Since no amount was awarded towards transportation, a sum of Rs.10,000/- is hereby awarded towards transportation. Totally, this Court awards a sum of

Rs.11,38,000/- as compensation. Rounded off to Rs.11,40,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

9. This Civil Miscellaneous Appeal is partly allowed by enhancing the compensation of Rs.6,11,000/- to Rs.11,40,000/- along with interest at 7.5% p.a. No costs.

10. The 2nd respondent/Insurance Company is directed to deposit the entire award amount along with interest and costs, as per the modified award passed by this Court, after adjusting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants/claimants are permitted to withdraw the entire amount along with accrued interest, after adjusting the amount if any already withdrawn, as apportioned by the Tribunal, within one week thereafter.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

vsm

To

The Motor Accidents Claims Tribunal
(Special Sub Judge I) Chennai.

1 cc to Mr.S. Partheeban, Advocate, sr. 5212

1 cc to Mr.N. Vijaya Raghavan, Advocate, sr. 5528

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