

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No.3542 of 2014

1.R.Vijayakumar

2.Lakshmipathy

.. Appellants/Petitioner

Vs.

1.Bakthavatchalu

2.New India Assurance Co.,Ltd.,

No.45, V Floor, Moore Street,

Chennai 600 001.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed against the Judgment and Decree dated 27.02.2012 passed in M.C.O.P.No.3637 of 2007 on the file of the Motor Accidents Claims Tribunal / Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr. V.Velu

For 2nd Respondent : Mr. J.Chandran

J U D G M E N T

This appeal has been preferred by the claimants aggrieved over the quantum of Rs.6,00,000/- awarded for the death of one Vijayakumari, aged about 35 years, who died in the accident occurred on 05.08.2007. Therefore, claim petition. Insurance Company has not come before this Court, by way of any appeal.

2. Heard Mr.V.Velu, learned counsel appearing for the appellants and Mr.J.Chandran, learned counsel appearing for the second respondent.

3. A perusal of the records would show that Rs.4,500/ was determined by the Tribunal as the monthly income, for snack vendor and supplier. Since the determination of Rs.4,500/- is reasonable, this Court confirms Rs.4,500/- as monthly income. 50% is required to be added towards future income 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 persons, who are aged about 45 years, are entitled to add 50% towards future prospectus. Therefore, 50% is required to be added and 1/3rd to be

deducted towards personal expenses. The monthly income is determined as follows:

$$\begin{aligned} \text{Rs.4,500} + 50\% &= \text{Rs.6,750}/ \\ \text{Rs.6,750}/ - \times 1/3 &= \text{Rs.4,500}/ - \end{aligned}$$

4. As per Ex.P4, Postmortem certificate, the Tribunal rightly determined the age of the deceased at 35 years. 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 appropriate multiplier is 15. Therefore, the loss of dependency is modified as follows:

$$\text{Rs.4,500}/ - \times 12 \times 15 = \text{Rs.8,10,000}/ -.$$

5. Rs.20,000/- awarded towards loss of consortium to the 1st appellant is too low. Therefore, following the judgment of the Honourable Supreme Court in Rajesh and others Vs. Rajbir Singh and others reported in 2013(3) CTC 883, Rs.1,00,000/- is awarded to the 1st appellant towards loss of consortium. Similarly, Rs.10,000/- each awarded towards loss of love and affection to the second appellant and Rs.10,000/- awarded towards funeral expenses and Rs.10,000/- awarded towards loss of expectation of life is adjusted towards transportation and the same are hereby confirmed. Totally, a sum of Rs.9,50,000/- is awarded as compensation. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. Accordingly, the compensation awarded by the Tribunal is hereby enhanced from Rs.6,00,000/- to Rs.9,50,000/- in the following manner:-

1	Loss of income (Rs.54,000/-X 15)	8,10,000
2	Loss of love and affection to the appellants 1 & 2	20,000
4	Loss of Transportation	10,000
5	Loss of consortium	1,00,000
	Funeral expenses	10,000
	Total	9,50,000

7. The second respondent/Insurance Company is directed to deposit the said sum of Rs.9,50,000/- together with interest, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw the entire amount equally.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

-s/d-
Deputy Registrar(J)
Dt:26/3/2015

True Copy

Sub-Assistant Registrar

To

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

+ 1 cc to Mr.J.Chandran, Advocate SR 8036

gj(co)
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