

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.1996 of 2009

1.Laila @ Raila
2.Parvatham
3.Ammakannu

... Appellants/Petitioners

Vs.

1.M/s.Rathna Dal Mill,
No.79, Rangapillai Street,
Pondicherry.

2.Divisional Manager,
The National Insurance Company Ltd.,
Vellore.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 16.12.2008 made in M.A.C.T.O.P.No.1016 of 2006 on the file of the Motor Accident Claims Tribunal, District Judge, Thiruvannamalai.

For Appellants : Mr.F.Terry Chellaraja

For Respondents : Mr.C.R.Krishnamoorthy for R2
R-1 Exparte.

JUDGMENT

This appeal has been preferred by the claimants aggrieved over the quantum of Rs.2,63,190/- awarded for the death of one Kasivelu, aged about 45 years, who died in the accident occurred on 10.09.2006. Therefore, claim petition. On contest, the Tribunal found that the offending vehicle insured with the 2nd respondent was responsible for the accident. Since no appeal has been preferred by the Insurance Company, the said finding has attained finality.

2. Heard Mr.F.Terry Chellaraja, learned counsel appearing for the appellant and Mr.C.R.Krishnamoorthy, learned counsel appearing for the 2nd respondent.

3. A perusal of the records would show that Rs.2,400/- determined by the Tribunal as the monthly income, for a Mason in 2006 is too low. The Honourable Supreme Court in New India Assurance Company Ltd. Vs. Smt.Kalapana & others reported in 2007 (1) SCC 514 determined the monthly loss of income at Rs.3,000/- after deduction towards personal expenses. Therefore, this Court determines a sum of Rs.4,500/- as monthly 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 30% towards future prospectus. Therefore, 30% is added and 1/3rd is required to be deducted towards personal expenses. The monthly income is determined as follows:

$$4500+30\%-1/3=3,900/-$$

4. As per Ex.P2, Postmortem certificate, the Tribunal rightly determined the age of the deceased at 45 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 14. The loss of income is determined as follows:

$$3900 \times 12 \times 14 = 6,55,200/-$$

5. Rs.5,000/- awarded by the Tribunal 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. Rs.4,000/- awarded by the Tribunal towards loss of love and affection is enhanced to Rs.20,000/-. Rs.2,000/- awarded by the Tribunal towards funeral expenses is hereby enhanced to Rs.10,000/-. Similarly, Rs.2,590/- awarded by the Tribunal towards transportation is hereby enhanced to Rs.15,000/- as the victim was initially admitted in Ghenglepet Government Hospital and later shifted to Chennai General Hospital. Since, death does not occurred immediately, this Court awards a sum of Rs.10,000/- towards pain and suffering. Totally, this Court awards a sum of Rs.8,10,200/- rounded off to Rs.8,10,000/- as compensation.

6. Though the learned counsel for the second respondent would submit that the appeal is restricted to Rs.3 lakhs, the facts of the case make this Court to award more amount and re-appreciating the entire evidence on record and applying the law enunciated by the Honourable Supreme Court, this Court determines the compensation at Rs.8,10,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

7. This Civil Miscellaneous Appeal is allowed by enhancing the compensation of Rs.2,63,190/- to Rs.8,10,000/-. No costs.

8. The second respondent/Insurance Company is directed to deposit the entire amount along with the interest and costs, less 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 entitled to withdraw their respective shares, as apportioned by the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1.The District Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

2.The Section Officer, V.R.Section, High Court, Madras

1 cc to M/s.M.Malar ,Advocate, SR.No.1679/15

1 cc to Mr..C.R.Krishnamoorthy ,Advocate, SR.No.1723/2015

C.M.A.NO.1996 of 2009

br(co)
pmk.26.3.2015

सत्यमेव जयते

WEB COPY