

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 4117 of 2008

1. Inbavalli
2. Vairam
3. Kumar
4. Nagendran
5. Senthamarai
6. Punithasri
7. Sivanandam

...Appellants/Claims

Vs.

1. V. Janardhanam
2. The Branch Manager,
United India Insurance Co. Ltd.,
Kallakurichi,
Villupuram District.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 19.08.2008 passed in M.C.O.P. No. 345 of 2007 by the Motor Accidents Claims Tribunal/District Judge, Nagapattinam.

For Appellants :: Mr.R. Bharathkumar

For Respondents :: Mrs.Harini for
Mr.N. Vijayaraghavan for
R2

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants, aggrieved over the quantum of compensation, to the tune of Rs.72,000/-, awarded by the Motor Accidents Claims Tribunal, for the death of the 1st appellant's husband, by name, Manipal, in the accident, which occurred on 09.12.2005.

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

3. There is no appeal by the Insurance Company and therefore, the question of negligence is not gone into.

4. The only grievance of the appellants is that the Tribunal took only Rs.1500/- as the monthly income of the deceased and awarded a very negligible amount as compensation.

5. On the other hand, learned counsel for the Insurance Company would support the award passed by the Tribunal.

6. A perusal of the records would show that the accident occurred on 09.12.2005. The deceased was a Fisherman as proved by Ex-P7, the identity card issued by the Fisheries Department. The monthly income fixed by the Tribunal at Rs.1500/- is too meagre in 2005 and therefore, this Court determines the monthly income at Rs.5000/-.

7. The size of the family of the deceased is seen and therefore, one-fourth deduction has to be made towards "Personal Expenses" following the judgment of the Honourable Apex Court rendered in Sarla Verma's case (2009 2 TN MAC 1 (SC)). Though the age of the deceased, as per postmortem report, is 63 years, the other documents, namely, Ex-P7, identity card and Ex-P6, ration card, show the age of the deceased as 55 years. Therefore, relying on Exs-P6 and P7, the age of the deceased is taken as 55 years and the appropriate multiplier, as per the II Schedule, would be 8. Hence, taking the monthly income as Rs.5000/-, after deducting one-fourth towards "Personal Expenses" and applying multiplier 8, "Loss of Income" is calculated as hereunder:

Monthly Income	::	Rs.5000/-
Less: Personal Expenses	::	Rs.5000 - $\frac{1}{4}$ (Rs.5000)
Monthly contribution to the family	::	Rs.3750/-
Loss of Income	::	Rs.3750 x 12 x 8
	::	Rs.3,60,000/-

As far as other heads are concerned, a sum of Rs.5000/- was awarded towards "Loss of Consortium", which is too low. Therefore, following the judgment of the Honourable Apex Court rendered in Rajesh and others v. Rajbir Singh and others reported in 2013 3 CTC 883, a sum of Rs.1 lakh is awarded to the 1st appellant towards "Loss of Consortium". The amount of Rs.5000/- awarded towards "Loss of love and affection" is also negligible and hence, the same is enhanced to Rs.60,000/-. Likewise, the amount of Rs.2000/- awarded towards "Funeral Expenses" is enhanced to Rs.10,000/-. Since, no amount was awarded towards "Transportation Expenses", a sum of Rs.10,000/- is awarded in this regard. Hence, the total compensation

payable to the appellants/claimants, is enhanced from Rs.72,000/- to Rs.5,40,000/-. The rate of interest awarded by the Tribunal at 7.5% per annum remains intact.

8. The 2nd respondent Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st appellant would be entitled to Rs.4,20,000/- and the other appellants are entitled to Rs.20,000/- each. The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To

1.The Motor Accident Claims Tribunal/District Court,
Nagapattinam.

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

1 cc to Mr.N. Vijayaraghavan ,Advocate, SR.No.3369

1 cc to Mr.R. Bharathkumar ,Advocate, SR.No.3000

msm(co)
pmk.5.3.2015

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