

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.1573 of 2016

1.C.V.S.Narayanan
2.Saratha Narayanan ..Appellants/Petitioner

Vs.

1.R.Srinivasan
2.The National Insurance Company Ltd.,
MACT Cell, No.751 Mount Road
III Floor, Chennai - 600 002 ..Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.08.2010 and made in M.C.O.P.No.153 of 2008 on the file of the Chief Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.

For Appellant : Mr.A.Arokiadoss

For Respondents: Mr.R.Ravichandran for R2

JUDGMENT

Having been not satisfied with the award of the Tribunal to the extent of Rs.4,00,000/-, the claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988.

2. It is revealed from the records that the appellants had moved the Motor Accidents Claims Tribunal with a claim petition in M.C.No.153 of 2008 claiming a sum of Rs.14,00,000/- for the death of their son one C.S.Suresh in a road traffic accident involving a motorcycle bearing Registration No.TN10-E-9249 and a Swaraj Mazda bearing Registration No.TN21-X-6699.

3. The first respondent, being the owner of the offending vehicle, viz., Swarj Mazda bearing Registration No. TN21-X-6699 remained ex parte. The second respondent, namely the National Insurance Company Ltd., alone had contested the claim. The Tribunal, however, based on the evidence, both oral and documentary, had proceeded to award a sum of Rs.4,00,000/- under the following heads:

Pecuniary loss	:	Rs.3,73,800.00
Loss of Love and Affection:		Rs. 20,000.00
Funeral Expenses and Transportation	:	Rs. 6,200.00

		Rs.4,00,000.00

4. Mr.A.Arokiadoss, learned counsel appearing for the appellants has submitted that for arriving at the quantum, the Tribunal had wrongly taken into consideration of the age of the parents of the deceased and selected the multiplier '7', which was absolutely wrong and in total negation of the settled principles of law. It is the further submission of the learned counsel appearing for the appellants that as per the latest pronouncement of the Apex Court, the practice of selecting the age of the parents, for quantifying the pecuniary loss of the family, has been completely dropped saying that since the age of the parents is uncertain, the age of the deceased alone should be considered for arriving at the pecuniary loss of the family. Insofar as the deceased is concerned, he was aged about 27 years at the time of occurrence and therefore, the multiplier '17' should be selected for calculating the pecuniary loss of the family.

5. The learned counsel for the appellants has also submitted that the income of the deceased was wrongly determined by the Tribunal and for calculating the just compensation, the income of the deceased might be taken as Rs.6500/-. Accordingly, the income of the deceased is fixed at Rs.6500/- per mensem. Since the deceased was aged about 27 years at the time of occurrence, 50% of the monthly income is to be added towards future prospects. Accordingly, it comes to Rs.9750/-. Apart from this, as per the decision of the Supreme Court in Sarla Verma & Ors vs Delhi Transport Corp.& Anr reported in (2009) 6 SCC 121, since the deceased was a bachelor, 50% is to be deducted towards the personal and living expenses of the deceased and the remaining 50% would be Rs.4,875/-. Since the multiplier "17" is selected based on the age of the deceased, the loss of dependency of the family would be Rs.9,94,500/- (Rs.4,875/- x 17 x 12) and besides this, as suggested by both the learned counsels, a sum of Rs.1,25,000/- is granted towards loss of love and affection and a sum of Rs.25,000/- is granted under the head of funeral expenses. Accordingly, the award of Rs.4,00,000/- granted by the Motor Accidents Claims Tribunal is enhanced to Rs.11,44,500/-.

Keeping in view of the above fact, this Civil Miscellaneous Appeal is allowed and the second respondent Insurance Company is directed to pay the enhanced amount of compensation to the extent of Rs.7,44,500/- with interest at the rate of 7.5% from the date of petition till realization

within a period of six weeks from the date of receipt of a copy of this order. It is brought to the notice of this Court that already the award passed by the Tribunal was deposited and subsequently it was also withdrawn along with accrued interest. Hence, on deposit of remaining amount, the appellants are permitted to withdraw the amount in equal proportion. The excess Court Fee paid by the appellants shall be refunded to them as per the provisions of the Tamil Nadu Court Fees and Suits Valuation Act. However, the appellants are not entitled to claim interest for the default period. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

gpa

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

+1cc to Mr.A. Arockiadoss, Advocate, S.R.No.43702
+1cc to Mr.R. Ravichandran, Advocate, S.R.No.44034

VGI (CO)
EU (30/09/2016)

C.M.A.No.1573 of 2016

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