

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.2083 of 2016
and CMP No.15172 of 2016

1. State of Tamil Nadu
Rep. by The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2. The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

.. Appellants

Vs.

1. Ivar Udayar.
2.Lakshmi
3.G.Murugan, DSP.,
S/o.Gopalsamy,
Sengam, Thiruvannamalai District.

.. Respondents

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal (Principal Sub Court), Tindivanam in MCOP No.975 of 2008 dated 10.01.2012.

For Appellants : Mr.T.Jayaramaraj
Government Advocate

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Mr.T.Jayaramaraj, learned Government Advocate, appearing for the appellants submitted that the only dispute in this appeal is to the quantum of compensation of Rs.22,70,000/- with interest, at the rate of 7.5% per

annum from the date of claim, till realisation, awarded to the parents of the deceased. Submission is placed on record.

2. In the light of the above, this court deems it fit to consider the facts as deduced.

3. Before the Motor Accidents Claims Tribunal (Principal Sub Court), Tindivanam, respondents/claimants have contended that on 20.07.2008, about 6.15 am, when their son Devanathan, was riding a motorcycle bearing Regn.No.TN05-Q-4845, with his wife as a pillion rider, a TATA SUMO Car bearing Regn.No.TN25-G-0318 owned by Government of Tamilnadu, and driven by the Deputy Superintendent of Police, Chengam, Tiruvannamalai District, the 3rd respondent, in a rash and negligent manner, dashed against the motorcycle, resulting in the death of the motorcyclist and the pillion rider.

4. Before the claims tribunal, the parents of the rider/respondents have contended that at the time of accident, the deceased was aged 26 years and as Manager cum Superintendent in AST Garden, GST Road, Saram, Tindivanam Taluk, he earned Rs.15,000/- per month. They claimed compensation of Rs.20,00,000/- under various heads.

5. Though, the appellant have disputed negligence as well as the quantum of compensation on various heads, evaluating the facts and the evidence adduced, the tribunal fixed negligence on the 3rd respondent.

6. Taking note of the oral testimony of PW1, father of the deceased aged about 55 years that at the time of the accident, the deceased was a Manager cum Superintendent in AST Garden, GST Road, Saram, Tindivanam Taluk, duly supported by PW3, an independent witness and corroborated by Ex.P6, salary certificate, the tribunal fixed the monthly income of the deceased as Rs.15,000/-. As per the entry in Ex.P2, Post Mortem report, tribunal fixed the age of the deceased as 26. Thereafter, deducting 1/3rd towards the personal and living expenses of the deceased and applying '18' multiplier, the tribunal has computed the loss of contribution to the family as Rs.21,60,000/-.

7. That apart, for loss of love and affection, parents have been awarded compensation of Rs.50,000/- each. Tribunal has further awarded Rs.5,000/- under the head funeral expenses and Rs.5,000/- for transportation. Altogether, the tribunal has awarded Rs.22,70,000/-, though, the claim was only for Rs.20 Lakhs. For awarding over and above the amount claimed viz., Rs.20,00,000/-, the tribunal has relied on the decision of the Hon'ble Supreme Court in 2008 ACC 356 (SC), and decisions

in 1(2010) ACC 559 [Karnataka High Court], 2010 ACJ 2255 (Calcutta High Court), 111(2009) ACC 554, Delhi High Court.

8. After computing the compensation amount of Rs.22,70,000/- with interest at the rate of 7.5% per annum from the date of claim till realisation, the tribunal has directed the balance court fee to be paid.

9. Though, Mr.T.Jayaramaraj, learned Government Advocate, contended that the tribunal has erred in determining the monthly income of the deceased as Rs.15,000/-, without any proof, this Court is not inclined to accept the said contentions for the reason that PW1, father of the deceased has adduced categorical evidence that at the time of accident, the deceased was a Manager cum Superintendent in AST Garden, GST Road, Saram, Tindivanam Taluk and earned Rs.15,000/-. PW3, has supported the same. Their version is duly corroborated by Ex.P4, Salary Certificate. There is no reason as to why the version of the parents/respondents, has to be discarded, when sufficient evidence has been adduced.

10. The only contention that needs to be considered is whether the application of '18' multiplier is on the higher side. As per the decision of the Hon'ble Supreme Court in *Sarla Verma and Others Vs. Delhi Transport Corporation*, reported in 2009 ACJ 1298, the proper multiplier to be

applied for the age group of victims between 26 and 30 years is '17'. In the case on hand, the tribunal has applied '18' multiplier. It is an error. But at the same time, the tribunal has awarded lesser compensation under the head loss of love and affection. At the time of filing of claim petition, the parents were aged 55 and 50 years respectively. Compensation of Rs.50,000/- each award under the head loss of love and affection to the parents is less. Moreover, compensation of Rs.5,000/- awarded under the head funeral expenses, is also less. No compensation has been awarded for loss of estate and conventional damages.

11. Admittedly, the tribunal has applied a higher multiplier. If '17' multiplier is applied, the reduction would be Rs.1,20,000/-. The said amount can be adjusted against lesser compensation awarded under the head loss of love and affection and other heads.

12. In the light of the above discussion, we are of the view that the appellants have not made out a case for reversal. Quantum of compensation awarded cannot be said to be on the higher side, warranting interference. Hence, the Civil Miscellaneous Appeal is dismissed. No costs.

13. Consequent to the dismissal of the appeal, the appellants are directed to deposit the entire award amount with proportionate accrued

interests and costs, less the amount already deposited, to the credit of MCOP No.975 of 2008 dated 10.01.2012, on the file of the Motor Accidents Claims Tribunal (Principal Sub Court), Tindivanam, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary applications before the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is also closed.

[S.M.K., J.] [N.A.N., J.]
19.09.2016

Index: Yes/No
Internet: Yes/No
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To

1. Motor Accidents Claims Tribunal,
Principal Sub Court, Tindivanam
2. The Section Officer,
VR Section, High Court, Madras.

S.MANIKUMAR.J.
and
N.AUTHINATHAN.J.

ars

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