

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.642 of 2016

1. A.Selvi
2. Gayathri
3. A.Karthick
4. A.Madhankumar Appellants/Claimants

vs.

1. Manikandan
2. National Insurance Company Ltd.,
Divisional Office - I, 2nd Floor,
L.R.N.Complex, Saradha College Road,
Salem - 636 007. Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 09.09.2015 in M.C.O.P.No.31 of 2012, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

For Appellant : Mr.S.P.Yuaraj

For 2nd Respondent : Mr.J.Chandran

J U D G M E N T

Aggrieved by the quantum awarded by the Tribunal, the claimants, who are the dependents of the deceased, have come up with the present appeal seeking enhancement of compensation.

2. Heard the learned counsel for the appellants/claimants and the learned counsel appearing for the 2nd respondent/Insurance Company.

3. For the death of one Anburose, who succumbed to the injuries sustained in an accident which occurred on 03.09.2011, his wife and three children filed a claim petition before the Tribunal seeking a sum of

Rs.25,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.6,56,600/- as compensation with interest at 7.5% per annum. Details of the award are thus:

Heads	Amount
Pecuniary Loss	Rs.5,61,600 .00
Funeral expenses	Rs. 25,000.00
Consortium to Wife - 1 st claimant	Rs. 25,000.00
Love and affection to claimants 2 and 3	Rs. 20,000.00
Love and affection to 4 th claimant	Rs. 25,000.00
Total	Rs.6,56,600 .00

4. Learned counsel for the appellants/claimants contended that the Tribunal erred in awarding a lesser compensation without taking note of the age and avocation of the deceased. Also, it is his contention that the Tribunal ought to have deducted 1/4th towards the personal expenses of the deceased, as his dependents are four in number.

5. According to the claimants, the deceased was a Painting Contractor and earned a sum of Rs.17,000/- per month. The Tribunal fixed his notional monthly income at Rs.6,000/- and deducting one-third towards his personal expenses and applying the multiplier of '13', awarded a sum of Rs.5,61,600/- as compensation towards 'pecuniary loss', after deducting 10% towards Income Tax. In Syed Sadiq vs. Divisional Manager, United India Insurance Company Limited, (2014) 2 SCC 735, the Apex Court fixed the monthly income of an injured vegetable vendor at Rs.6,500/-, taking note of the escalating prices.

6. Although, the income of those employed in unorganized sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the Government employees and those employed in private sectors, it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. Hence, considering

the age of the deceased and in view of the ruling of the Apex Court in Syed Sadiq case, this Court fixes the fairwages of the deceased at Rs.8,000/- per month for the purpose of Motor Accidents Claim. Though, the claimants are four in number, in view of the fact that the 2nd claimant/daughter of the deceased is married, it is appropriate to deduct one-third towards the personal expenses of the deceased. Accordingly, deducting one-third from the monthly income of Rs.8,000/- and applying the multiplier of '13', as the deceased was aged 46 years at the time of accident, a sum of Rs.8,31,948/- (Rs.5,333/- x 12 x '13') is computed and after deducting 10% towards Income Tax, the revised compensation towards "Pecuniary Loss" is arrived at a sum of Rs.7,48,753/-.

7. As far as compensation towards "Loss of Consortium" is concerned, this Court is inclined to enhance the same and it is accordingly enhanced from a sum of Rs.25,000/- to Rs.1,00,000/-. The compensation awarded under other heads are confirmed. Break-up details of the revised award are thus:

Heads	Amount awarded by the Tribunal	Amount awarded by this Court
Pecuniary Loss	Rs.5,61,600.00	Rs.7,48,753.00
Funeral expenses	Rs. 25,000.00	Rs. 25,000.00
Consortium to Wife - 1 st claimant	Rs. 25,000.00	Rs.1,00,000.00
Love and affection to claimants 2 and 3	Rs. 20,000.00	Rs. 20,000.00
Love and affection to 4 th claimant	Rs. 25,000.00	Rs. 25,000.00
Total	Rs.6,56,600.00	Rs.9,18,753.00

8. In fine, the compensation awarded by the Tribunal is enhanced and the appellants/claimants are entitled to a sum of Rs.9,18,753/- (Rupees Nine Lakhs Eighteen Thousand Seven Hundred and Fifty Three only) as revised compensation. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed. It is needless to state that if the Insurance Company has not deposited any amount so far, it is directed to deposit the entire award amount as ordered by this Court together with accrued interest

from the date of the claim petition till the date of deposit to the credit of M.C.O.P.No.31 of 2012 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem, within a period of six (6) weeks from the date of receipt a copy of this judgment. On such deposit being made, the award amount shall be paid to the claimants in the ratio apportioned by the Tribunal, in the form of a crossed Account Payee Cheque, favouring only the claimants and it should not be issued in favour of any other person/Company.

9. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

The Civil Miscellaneous Appeal is allowed with the above modification. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

aeb
To:

The Special District Judge,
Motor Accidents Claims Tribunal,
Salem.

1 cc to Mr.S.P.Yuaraj, Advocate, sr.27664
1 cc to Mr.J.Chandran, Advocate, s.27625

C.M.A.No.642 of 2016

tm co
kra 15.09.2016

WEB COPY