IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:
THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.868 of 2016

1. T.Lakshmamma
2. T.Bhaskar Reddy ... Appellants

Vs.

Ramaswamy Reddy (Died)
1. ICICI Lombard General Insurance Co. Ltd.,
No.140, Chotabai Centre, II Floor,
Nungambakkam High Road,
Chennai 600 034.

2. Ranga Reddy ... Respondents
(Legal Heir of deceased Ramaswamy Reddy)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 14.07.2015 made in M.A.C.T.O.P No.5247 of 2012 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellants : Mr.K.Suryanarayanan

J U D G M E N T

Aggrieved by the award of the Tribunal, the claimants, who are the father and mother of the deceased, have come up with this appeal seeking enhancement of compensation.

2. On 20.07.2012, about 15.00 hours, when the deceased was standing on the ridge of an agricultural land in Brahamanapalli Village, a Tractor bearing Registration No.AP-03-T-6664 driven by its driver in a rash and negligent manner dashed against the deceased and ran over him and he sustained multiple injuries and died on the way to Hospital. For the death of their son, the claimants filed a claim petition before the Tribunal seeking a sum of Rs.15,00,000/- as compensation.

3. On the side of the claimants, T.Bhaskar Reddy, father of the deceased was examined as P.W.1, one Narasimha Reddy, an eye-witness to the accident was examined as P.W.2 and Exs.P1 to P8 were marked. On the side of the Insurance Company, no witness was examined and no document was marked. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.6,61,000/- as compensation to the claimants under the following heads:

Heads	Amount
Pecuniary Loss (Rs.3500/- x 12 x 13)	Rs.5,46,000.00
Loss of love and affection	Rs.1,00,000.00
Funeral expenses	Rs. 15,000.00
Total	Rs.6,61,000.00

4. Learned counsel appearing for the appellants/claimants contended that the Tribunal failed to appreciate the Salary Certificate of the deceased, marked as Ex.P6 and fixed his income at Rs.7,000/- per month. According to him,the monthly income of the deceased should have been fixed at Rs.15,000/-, as the deceased was holding Driving Licence to drive heavy Transport vehicles. It is also his contention that the future prospects of the deceased was not taken into consideration by the Tribunal while calculating compensation towards pecuniary loss.

5. In the case on hand, the claimants have stated that their deceased son was working as a Lorry Driver, earning a sum of Rs.15,000/- per month. But, the Tribunal has fixed a sum of Rs.7,000/- as his monthly income. It is seen that the deceased was aged only 25 years at the time of accident and the Tribunal ought to have considered 50% of his income towards 'future prospects'. In the case of Rajesh vs. Rajbir Singh [2013 (9) SCC 54], the Supreme Court, while granting compensation to the claimants in fatal cases, has considered the future prospects of the deceased. Relevant portion of the said judgment is extracted hereunder:

> “8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.
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> 9. In Sarla Verma case, it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation,

we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter."

6. Thus, going by the ratio laid down in Rajesh vs. Rajbir Singh's case, this Court, taking the monthly income of the deceased at Rs.7,000/-, adding a sum of Rs.3,500/- (which is 50% of the monthly income towards future prospects), deducting 50% of the same towards the personal expenses of the deceased and applying the multiplier of '18' to the age of the deceased as per the ratio laid down in the case of Sarla Verma -Vs- Delhi Transport Corporation and another [2009 (6) SCC 121], arrives at a sum of Rs.11,34,000/- (Rs.7000/- + Rs.3500/- x 50% x 12 x 18) as revised compensation towards 'Pecuniary Loss'.

7. Taking into account that the accident is of the year 2012, this Court feels that the compensation of Rs.15,000/- awarded towards 'Funeral expenses' need to be enhanced and accordingly, it is enhanced to Rs.25,000/-. As far as the compensation awarded towards 'loss of love and affection' is concerned, I find it reasonable and the same is confirmed.

8. In fine, the quantum awarded by the Tribunal is enhanced to Rs.12,59,000/- and break-up details are as follows:

Heads	Amount awarded by the Tribunal	Amount awarded by this Court
Pecuniary Loss	Rs.5,46,000.00	Rs.11,34,000.00
Loss of love and affection	Rs.1,00,000.00	Rs. 1,00,000.00
Funeral expenses	Rs. 15,000.00	Rs. 25,000.00
Total	Rs.6,61,000.00	Rs.12,59,000.00

9. In all, the award passed by the Tribunal is enhanced and the appellants/claimants are entitled to a sum of Rs.12,59,000/- (Rupees Twelve Lakhs Fifty Nine Thousand only) as revised compensation. The interest at 7.5% per annum awarded by the Tribunal is confirmed. It is made clear that if no amount is deposited so far, the Insurance Company is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.5247 of 2012 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the appellants/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.

10. 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 direction. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To :

The II Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.

+1 cc to Mrs.Sreevidhya, Advocate,sr.27835.

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