

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Civil Miscellaneous Appeal No.1411 of 2013
and

Civil Miscellaneous Appeal No.679 of 2016

C.M.A.No.1411 of 2013:

United India Insurance Co. Ltd.,
'Silingi Building',
New No.134, Old Nos.40-42,
Greens Road, Chennai - 600 006. Appellant/2nd Respondent

vs.

1. T.Vasugi
2. D.Thiyagarajan1 & 2 Respondents/
Petitioners
3. M/s. Vel Tech
No.42, Avadi Alamathi Road,
Vellannur Post, Chennai 600 062....3rd Respondent/1st
Respondent
(R3 set exparte in lower Court)

C.M.A.No.679 of 2016:

1. T.Vasugi
2. D.ThiagarajanAppellants/Petitioners

vs.

1. M/s. Vel Tech
No.42, Avadi Alamathi Road,
Vellannur Post, Chennai 600 062.
2. M/s.United India Insurance Co. Ltd.,
'Silingi Building',
New No.134, Old Nos.40-42,
Greens Road, Chennai - 600 006.... Respondents/
Respondents

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 21.09.2012 passed in M.C.O.P.No.3427 of 2009 on the file of the Motor Accidents Claims Tribunal/XV Additional Judge, Chennai.

For Appellant in C.M.A.No.1411/2013
& 2nd respondent in C.M.A.No.679/2016 : Mr.D.Baskaran

For Respondents 1 & 2 in C.M.A.No.1411/2013
& Appellants in C.M.A.No.679/2016 : Ms.Ramya V. Rao

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C O M M O N J U D G M E N T

(Judgment of the Court delivered by S.VAIDYANATHAN,J.)

Challenging the judgment and decree dated 21.09.2012 passed by the Motor Accidents Claims Tribunal, XV Additional Judge, Chennai, in M.C.O.P.No.3427 of 2009, the Insurance Company has filed C.M.A.No.1411 of 2013 mainly disputing the quantum of compensation awarded by the Tribunal and the claimants have come up with C.M.A.No.679 of 2016 seeking enhancement of compensation.

2. Since the issue involved in both the appeals is one and the same, they are taken up for disposal by a common judgment.

3. The claimants in this case are the parents of the deceased Karthick. On 11.09.2009, about 8.50 hours, when the deceased was riding his motor cycle bearing Registration No.TN 03 B 7645 on Veerapuram Road, from south to north direction, near Vel Tech Polytechnic College, Avadi, for attending Campus interview at Vel Tech Engineering College, Chennai, a private bus bearing Registration No.TN-20-T-3364, proceeding from north to south direction in a rash and negligent manner, hit the motor cycle, due to which the deceased fell down on the road, sustained grievous fatal injuries all over the body and died in the Hospital, after due treatment. The parents of the deceased filed a claim petition seeking a sum of Rs.50,00,000/- as compensation for the death of their son.

4. The Insurance Company resisted the claim petition disputing the manner of accident and the quantum of compensation claimed by the claimants. The owner of the College Bus remained exparte before the Tribunal.

5. Before the Tribunal, on the side of the claimants, four witnesses were examined. The mother of the deceased, viz. Mrs.Vasuki, was examined as P.W.1; an eye-witness to the accident, one Mr.Ganesan was examined as P.W.2; one Mr.Balachandran, classmate of the deceased was examined as P.W.3; Mr.D.Thiagarajan, father of the deceased was examined as P.W.4 and Exhibits P1 to P26 were marked in support of their claim. Details of the Exhibits would run thus:

Ex.P1	Copy of FIR
Ex.P2	Medical Bill
Ex.P3	Death Summary
Ex.P4	Medical Bills
Ex.P5	Postmortem Certificate
Ex.P6	Death Certificate
Ex.P7	Legal Heir Certificate
Ex.P8	Transfer Certificate of deceased
Ex.P9	Quiz IT 2000
Ex.P10	Hindi Certificate
Ex.P11	Samarpanam 2008 Certificate
Ex.P12	Oracle Certificate
Ex.P13	Provisional Certificate
Ex.P14	Convocational Certificate
Ex.P15	Campus Recruitment
Ex.P16	Income proof of the friends of the deceased
Ex.P17	Driving Licence of the deceased
Ex.P18	Provisional & Degree Certificate of P.W.2
Ex.P19	Appointment Order of P.W.2
Ex.P20	Pay Slip of P.W.2
Ex.P21	Provisional & Degree Certificate of P.W.3
Ex.P22	Offer Letter
Ex.P23	I.D. Card of P.W.3
Ex.P24	Pay Slip of P.W.3
Ex.P25	Voter ID Card of 1 st petitioner
Ex.P26	Voter ID Card of 2 nd petitioner

On the side of the Insurance Company, no witness was examined and no document was marked.

6. On consideration of the available oral and documentary evidence, the Tribunal held that the accident had occurred due to the rash and negligent driving of the driver of the offending vehicle, i.e. College Bus, fixed the liability to compensate the claimants on the owner and insurer of the College Bus and awarded a sum of Rs.21,23,340/- as compensation to the claimants. Details of the award are as follows:

S.No.	Heads	Compensation awarded by the Tribunal
1	Loss of dependency	Rs. 15,60,000/-
2	Funeral expenses	Rs. 5,000/-
3	Medical expenses	Rs. 58,340/-
4	Loss of Love and affection	Rs. 5,00,000/-
	Total	Rs.21,23,340/-

7. Learned counsel appearing for the Insurance Company mainly contended that the compensation awarded by the Tribunal is exorbitant, more particularly under the head "loss of love and affection".

8. On the other hand, learned counsel appearing for the claimants contended that the award of the Tribunal is grossly low and untenable, in view of the fact that the deceased was a Software Engineer.

9. Heard the learned counsel on either side and perused the material documents available on record.

10. Admittedly, the deceased Karthick was aged 22 years at the time of accident. The material records produced before this Court goes to show that the deceased was a brilliant Engineering student. Based on the salary earned by the friends of the deceased, the Tribunal has fixed the monthly income of the deceased at Rs.20,000/-, which in the opinion of this Court, is excessive. In *Syed Sadiq vs. Divisional Manager, United India Insurance Company Limited*, (2014) 2 SCC 735, the Apex Court fixed the monthly income of a vegetable vendor at Rs.6,500/- per month. In view of the above, as the deceased in this case was an Engineering Graduate, this Court feels it appropriate to fix a sum of Rs.12,500/- as the monthly income of the deceased and award 50% of the said income towards his future prospects. The multiplier of '18' adopted by the Tribunal is correct and it does not require interference. Thus, the compensation towards 'loss of dependency' is worked out as under:

Monthly income of the deceased	Rs.	12,500.00
Addl: 50% towards future prospects	Rs.	6,250.00
	Rs.	18,750.00
(Rs.18,750/- x 12)	Rs.	2,25,000.00
Less : 10% towards Income Tax	Rs.	22,500.00
	Rs.	2,02,500.00
Less : 50% towards personal expenses	Rs.	1,01,250.00

Monthly income of the deceased	Rs.	12,500.00
Loss of Dependency = (Rs.1,01,250/- x '18')	Rs.	18,22,500.00

11. Further, this Court feels that the compensation of a sum of Rs.5,00,000/- awarded towards "loss of love and affection" is on the higher side, as the dependants of the deceased are his father and mother. Accordingly, the compensation under this head is reduced and the claimants are entitled to a sum of Rs.2,00,000/- as compensation towards "loss of love and affection."

12. We find that the compensation awarded towards 'Funeral expenses' is on the lesser side. No amount is awarded towards transportation charges. Hence, a sum of Rs.25,000/- is granted under the head 'funeral and transportation expenses'. Since, compensation awarded towards 'Medical expenses' is supported by valid Bills, the sum of Rs.58,340/- awarded towards the same is confirmed. Further, this Court feels it appropriate to award compensation under the head 'Loss of Estate' and accordingly, a sum of Rs.17,500/- is awarded towards the same.

13. Though compensation awarded under various heads are modified, there is no change in the quantum of compensation awarded by the Tribunal. Also, this Court confirms the interest awarded by the Tribunal at 7.5% per annum from the date of petition till the date of realisation. Break-up details of the revised award are tabulated as under:

S.No.	Heads	Compensation awarded by the Tribunal	Compensation modified by this Court
1	Loss of dependency	Rs. 15,60,000/-	Rs. 18,22,500/-
2	Funeral & transportation expenses	Rs. 5,000/-	Rs. 25,000/-
3	Medical expenses	Rs. 58,340/-	Rs. 58,340/-
4	Loss of Love and affection	Rs. 5,00,000/-	Rs. 2,00,000/-
5	Loss of Estate	-	Rs. 17,500/-
	Total	Rs.21,23,340/-	Rs.21,23,340/-

14. In fine, the claimants are entitled to a sum of Rs.21,23,340/- as compensation with interest and proportionate costs. The Insurance Company shall deposit the entire compensation awarded by the Tribunal to the credit of M.C.O.P.No.3427 of 2009, less the amount already deposited within a period of six (6) weeks from the date of receipt of a copy of this order. It is also made clear that the award amount shall be paid to the claimants 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.

In fine, with the above modification in the quantum of compensation, both the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

1.The Motor Accidents Claims Tribunal,
XV Additional Judge, Chennai.

2.M/s.United India Insurance Co. Ltd.,
'Silingi Building',
New No.134, Old Nos.40-42,
Greams Road, Chennai - 600 006

+2 ccs to Mr.A.N.Viswanatha Rao Advocate sr.18895

+1 cc to Mr.D.Baskaran Advocate sr.18482

Common Judgment
in
C.M.A.No.1411 of 2013
&
C.M.A.No.679 of 2016

aa12/05/2016

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