

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.07.2017
CORAM
THE HONOURABLE Dr. JUSTICE. S.VIMALA
C.M.A.No.1526 of 2017

1. Ramu
2. Haridoss
3. Radha

... Appellants/Claimants

versus

1. Dhanapal
 2. The Divisional Manager,
New India Assurance Co. Ltd.,
Vellore.
- (R1 remained ex parte before the
Tribunal)

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicle Act 1988, against the Judgment and Decree dated 29.04.2005 made in M.C.O.P.No.512 of 2002 on the file of the Motor Accidents Claims Tribunal, Sub Court, Cheyyar, Tiruvannamalai District.

For Appellants : Mr.UM.Ravichandran

For R2 : Mr.M.Krishnamurthy

JUDGMENT

The deceased, Manglakshmi, aged about 21 years, an agricultural labourer, earning a sum of Rs.3,000/- p.m., died in an accident that took place on 12.10.2002. The deaf and dumb husband and parents of the deceased Manglakshmi filed a claim petition, claiming a sum of Rs.6,00,000/- as compensation.

2. The Tribunal, considering the oral and documentary evidence, awarded compensation in a sum of Rs.1,72,000/-, the break-up details of which are as hereunder:

Loss of Dependency - Rs.1,70,000/=

(1250 X 2/3 X 12 X 17)

Cremation Expenses - Rs. 2,000/=

Total Rs.1,72,000/=

3. The learned counsel appearing for the appellants/claimants pointed out that no amount has been awarded towards transport expenses, while the deceased was suffering from injuries and that no amount has been awarded towards loss of love and affection to all the three claimants. It is also contended by the learned counsel for the appellants/claimants that the deceased, apart from doing agricultural work, was also

doing household services, but, the household services had not been quantified in terms of money. It is also pointed out that future prospective increase in income has not been taken into account by the claims Tribunal.

4. Per contra, the learned counsel appearing for the Insurance Company submitted that as there was no proof to show the annual income of the deceased at Rs.36,000/-, the Tribunal was justified in fixing the annual income of the deceased at Rs.15,000/-; when the deceased is stated to be an agriculturist, future prospective increase in income could not be taken into consideration. Hence, the award does not require any interference.

5. Considering the submissions and counter submissions advanced on either side, the vital point that requires the consideration of this Court is whether the quantum of compensation awarded by the Tribunal is justifiable or not or does it needs enhancement.

6. The deceased is stated to be an agriculturalist and earning a sum of Rs.36,000/- per annum. However, as rightly contended by the learned counsel appearing for the insurance company, there is no documentary evidence to substantiate that the deceased was earning an annual income of Rs.36,000/-.

7. However, contra to the same the submission of the learned counsel for the claimants is that the deceased, in addition to the agricultural work, was doing household work and the same needs to be looked into in terms of money for the purpose of quantifying the monthly earnings of the deceased. The said contention advanced merits acceptance.

8. The gratuitous services rendered by wife with true love and affection to the children and her husband and managing the household affairs cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of husband and children including cooking of food, washing of clothes, etc. She teaches her small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children. Hence, the said service should also be taken into consideration in terms of money. Further, the family has lost the love and affection from the deceased, which has also to be taken into consideration for quantifying the compensation.

9. In view of the above, the monthly contribution of the deceased is determined at Rs.1,500/- and adopting the multiplier of 17, the loss of dependency is fixed at Rs.3,06,000/- (Rs.1,500 x 12 x 17); further awarding Rs.4,000/- towards transportation, Rs.5,000/- towards cremation expenses and Rs.60,000/- (Rs.20,000/- each to the claimants) towards loss of love affection. Accordingly, this Court quantifies the compensation in a sum of Rs.3,75,000/-.

10. The learned counsel appearing for the second respondent/Insurance Company submitted that the appeal has been left unnumbered for almost ten years for which the insurance company cannot be made liable to pay interest.

11. From a perusal of the records, it is not clear as to the reason the appeal has been lying for a number of years without listing. Though the appeal has been filed in the year 2006 and the date of filing being 30.01.2006, however the appeal has seen the light of the day only now. It further seems that the appellant has not taken any steps to bring the appeal for hearing. In such a circumstance, it would not be justifiable in fastening the liability on the 2nd respondent/insurance company to pay interest for a period of 10 years.

12. Keeping in mind the fact that the husband of the deceased is a person, who is deaf and dumb and is represented by a guardian, who is required to be taken care of, this Court, considering the contention of the learned counsel appearing for the appellants that the amount of compensation may be ordered to be paid in lump sum so as to enable the guardian to take care of the deaf and dumb person, feels justified that the said submission of the learned counsel for the claimants needs to be considered positively. Further, the learned counsel for the appellant also submits that this Court may fix any amount towards interest, considering the plight of the claimant, who is deaf and dumb.

10. Under such circumstances, considering the overall factual scenario and also keeping in mind the fact that the claimant is a deaf and dumb person and further the acceptance by the learned counsel for the appellant that this Court may fix the interest that may be paid to the claimant, this Court accordingly, directs that the second respondent/Insurance Company shall pay a consolidated sum of Rs.4,50,000/-, which will be inclusive of the compensation amount in a sum of Rs.3,75,000/- and interest in a sum of Rs.75,000/-.

11. In the result, the Civil Miscellaneous Appeal is allowed in the aforesaid terms. However, there shall be no order as to costs.

12. The 2nd respondent/insurance company is directed to deposit the amount as enhanced by this Court above, less the

amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the said amount to the bank account of the respective claimants through RTGS within a period of two weeks thereafter. Before obtaining copy of the Judgment, the claimants shall pay the deficit court fees, if any.

Sd/--

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Subordinate Judge, Motor Accidents Claims Tribunal, Cheyyar, Tiruvannamalai District.
2. The Section Officer, V.R.Section, Madras High Court, Chennai. (2 copies)

+1cc to Mr.Ravichandran, Advocate Sr.No.47151

+1cc to Mr.Krishnamoorthy, Advocate SR.No.47056

C.M.A.No.1526 of 2017

MG (CO)

sm:26.2.2018

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