

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2849 of 2011
and M.P.No.1 of 2011

The Commanding Officer
104, IOCI (GREF),
Ramgarh Cantonment,
District Hazari Bagh,
Jharkand-829 122.

.. Appellant/2nd Respondent

Vs.

1. Vadivel(died)
2. Jayamani
3. Vasanthakumar ..1 to 3 Respondents/1 to 3 Petitioners
4. M.Asaithambi .. 4th Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and Decree dated 12.05.2010 passed in M.C.O.P.No.2 of 2010, on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Erode.

For Appellant : Mr.S.Rathnasabapathy
For Respondents : Mr.A.K.Kumarasamy
for Mr.S.Kaithaimalai Kumaran

JUDGMENT

The appellant is a commanding officer in Defence at Ramgarh Cantonment and challenges both the liability as well as the quantum of compensation passed by the Tribunal.

2. A certain Vadivel, the owner cum driver of a lorry bearing No.TN-28-7647. On 10.10.2002, at about 9.30 a.m., during one of his trips, this time from Erode to Gaya, he parked the lorry at Ramgarh village in Jharkhand. He came out of the lorry to check the air in the rear tyre of his lorry, and while he was on his job, a truck belonging to the defence and operating under the control of the appellant came rashly and negligently and dashed against him. He suffered multiple injuries. He was moved to the Army hospital in the very truck that was responsible for his injury minutes ago. In the said accident, his left leg below his knee as well as right foot were amputated. He had filed a claim for his permanent disability. But, in the course

of his proceedings, he died on 12-04-2005 whereinafter the claim-petition was amended to bring on record his heirs. He was aged 35 years at the time of death and compensation of Rs.16,00,000/- was sought before the Tribunal. On evaluating evidence, the Tribunal has passed Rs.4,86,000/- payable with interest at 7.5% p.a. This is now under challenge.

3. The learned counsel for the appellant submitted that there is no evidence that the death has ensued as a direct consequence of the accident. However, the Tribunal has treated it as one. Secondly, the Tribunal had reckoned the monthly income of the deceased at Rs.3,000/-. Thirdly, the Tribunal had granted interest at 7.5% from the appropriate interest would have been only 6%.

4. Per contra, the learned counsel for the respondents/claimants strongly argued that the compensation awarded by the Tribunal is in order and should not be interfered with.

5. What the appellant has not realised is that the law of compensation is an evolving one and Sarala Varma to Raj kumar Vs Ajay Kumar and another are but halting places in that evolutionary process that have begun to grant an Indian life some dignity even when it dies like a rabbit on our roads or when it goes paralysed with right to dignified existence as a citizen of India is stripped off him for no fault of his. Vadivel has been only doing his lawful avocation and can his life be priced or his contribution to his family be quantified? In one moment of madness, the dreams and hopes of a family is lost and their contribution to the nation is destroyed. But the debate on how to value an ordinary Indian life shamelessly goes on for yet another time before this Court now. If Vadivel's death cannot be attributed to his injuries, then he has to be compensated for the injuries he had suffered, the consequences it had left on him and his family, and the trauma they were forced to endure.

6. Raj Kumar Vs Ajay Kumar and another [2011 ACJ 1] has introduced a degree of objectivity in categorising disabilities forced on a road-accident victim into functional and non-functional disability. If Vadivel's plight is tested on the plane of the ratio of this Case, to conclude that he had suffered cent percent functional disability as he had lost his leg with no possibility to continue his avocation as a driver, will be an open-riddle. Compensation then would be larger than what is now awarded. Since no cross objection has been filed by the claimants, this Court did not consider that option.

7. In the result, I find no merit in the appeal and same is dismissed. The appellant is directed to pay the entire award of compensation along with accrued interest, less if any amount already deposited, within a period six weeks from the date of receipt of a copy of this order, whereupon the claimants are entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

ssn

To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate), Erode.

2. The Section Officer
VR Section, High Court, Madras.

+1 CC to Mr.A.K. Kumarasamy, Advocate sr 56024.

C.M.A.No.2849 of 2011
and M.P.No.1 of 2011

SP(30/11/2017)

सत्यमेव जयते

WEB COPY