

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.2576 of 2016

1. C.Sabapathy
2. S.Poongodi

... Appellants

Vs.

1. T.Ramesh
2. M/s.The Oriental Insurance Company Limited,
No.W-115, 1st Floor, S.B.Complex,
3rd Avenue, Above VIP Showroom,
Near Roundana, Anna Nagar,
Chennai-40
3. S.Loganayaki
4. S.Siyamala

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act for enhancement of the compensation awarded in the judgment and decree dated 04.03.2013 made in MCOP.No.122 of 2010 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate at Tirupur.

For Appellants : Mr.MA.P.Thangavel

For 2nd Respondent : Mr.D.Bhaskaran

JUDGMENT

The parents of the deceased Tamil Selva Vijayakumar, who was a pillion rider along with one Ranjith, who was 22 years old at the time of accident, are the claimants, who have preferred an appeal for enhancement of the award of compensation granted in M.C.O.P.No.122 of 2010 on the file of the Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Tirupur. There is no challenge to the negligence which is held against the 1st respondent vehicle. The only challenge is with respect to the quantum of the award passed by the tribunal.

2. The deceased was stated to be undergoing B.Tech. Final year in an Engineering College at Chennai and his age was 22 years at the time of accident. The age is also confirmed by the School and College Certificates produced by the claimants. At the time of accident on 09.12.2009, as he was undergoing B.Tech. Course as stated above, the Tribunal, while taking his monthly income as Rs.12,000/- and after deducting 50% for his personal expenses, a sum of Rs.6,000/- is fixed as notional income of the deceased. Further, since the deceased was aged at 21 years, the multiplier 12 was adopted and a sum of Rs.12,24,000/- (Rs.6,000 x 12 x 12) has been arrived at. In addition to the same, a sum of Rs.10,000/- under the head of loss of Love and Affection, Rs.5,000/- for Funeral Expenses and Rs.1,000/- for Transportation have been granted which comes to Rs.12,40,000/-. The said award is under challenge now.

3. The only contention of the learned Counsel for the appellants is that since the deceased is a bachelor, who is hardly 22 years old and undergoing B.Tech. Engineering Course, definitely, he would have lived for another 25 years and during that period, his salary will be doubled, hence 100% of monthly income should be taken as future prospects. Likewise, the compensation given under the heads of loss of love and affection, funeral expenses have also to be enhanced. Therefore, according to the learned Counsel for the appellants, the award of the Tribunal has to be set aside by enhancing the compensation amount payable to the claimants.

4. Per contra, the learned Counsel appearing for the 2nd respondent Insurance Company states that the Tribunal has awarded a just and reasonable compensation which does not warrant any interference at the hands of this Court.

5. The accident had occurred in the year 2009 and at the time of accident, the deceased was 22 years old. Therefore, while calculating the notional income, at Rs.12,000/- as fixed by the Tribunal, the future prospects also to be added by taking into account 50% of the monthly income i.e. Rs.6,000/- which comes to Rs.18,000/- and by deducting 50% to his personal expenses, it comes to Rs.9,000/-. By adopting the multiplier 18 based on the decision in Sarala Verma Vs. Delhi Transport Corporation reported in (2009) 2 TN1 MAC Page No.11, the loss of income to the family comes to Rs.19,44,000/- (Rs.9,000 x 12 x 18). Considering the facts and circumstances of the case, the funeral expenses is enhanced to Rs.25,000/- and for loss of estate, a sum of Rs.10,000/- is awarded and the amount of Rs.1000/- awarded under Transportation Charges is confirmed, which comes to Rs.19,80,000/- rounded off to Rs.20,00,000/-.

6. Thus, a sum of Rs.20,00,000/- is awarded to the appellants by enhancing the compensation of Rs.12,40,000/- awarded by the Tribunal, along with an interest at 7.5% p.a. from the date of petition till the date of receipt. The 2nd respondent Insurance Company is directed to deposit the total award amount, if not deposited already, within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit being made, the claimants are entitled to withdraw the same. Further, for the enhancement of the award amount, requisite court fee has to be paid by the claimants.

7. With the above observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Tirupur.

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.17651
+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.17568

C.M.A.No.2576 of 2016

VSN(CO)
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