

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2086 of 2017

M.C.Anand Babu (deceased)

1.M.Chandran

2.M.Shanthi

... Appellants/Petitioners

/Vs/

1.P.M.Ramesh

2.National Insurance Co.Ltd.,

Door No.AD-I, II-Avenue,

Anna Nagar, Chennai-600 040. ... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.04.2012 made in M.C.O.P.No.246 of 2010 on the file of the Motor Accident Claims Tribunal, Chennai (III Court of Small Causes, Chennai).

For Appellants : Mr.C.Veeraraghavan

For Respondent : Mr.S.Vadivel

No.2.

JUDGMENT

M.C.O.P.No.246 of 2010 has been filed by the injured viz., M.C.Anand Babu, while he was alive and sustained injury in an accident that took place on 25.10.2009. After hospitalization for a period of 111 days, he died and thereafter, the petitioner Nos.2 & 3, who are the father and mother of the deceased, came on record the legal representatives of the deceased.

2. During the pendency of this appeal, the second appellant, who is the father of the deceased, died on 07.11.2013. Hence, it is represented that the third appellant, who is the mother of the deceased, is only the claimant. The tribunal, on consideration of the materials placed before it, has quantified the compensation at Rs.11,48,000/- with the following break-up details;

Pecuniary Loss	:	Rs. 5,40,000/-
Medical Expenses	:	Rs. 5,93,000/-
Loss of Love and Affection	:	Rs. 10,000/-
Funeral Expenses	:	Rs. 5,000/-

Total Compensation	:	Rs.11,48,000/-
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2.1. Fixing the monthly income at Rs.4,500/- and deducting 1/3 towards personal expenses and adopting multiplier 15, (which is fixed upon the age of the mother,) loss of dependency has been quantified at Rs.5,40,000/-; the medical expenses incurred during the treatment period has been awarded at Rs.5,93,000/-, which is supported by the documents and which are filed before the Claims Tribunal; Loss of love and affection has been quantified at Rs.10,000/- and funeral expenses at Rs.5,000/- the total amount of compensation has been quantified.

3. The claimants have filed this appeal, challenging the quantum of compensation as inadequate mainly on the following grounds, i) that the age of the deceased is a relevant factor for application of multiplier and not the age of the mother and therefore, the appropriate multiplier ought to have been applied by the Claims Tribunal, while assessing the claim of compensation. ii) that while fixing the monthly income, the Tribunal ought to have considered 50% of future prospective increase in income and that has not been done, which has made the award as inadequate.

4. It is contended by the learned counsel for the appellant that 50% of the future prospective increase in income ought to have been considered as per reported decision in Rajesh and Others Vs. Rajbir Singh and others, reported in 2013 (2) TNMAC 55 (SC). This contention based on the decision of the Hon'ble Supreme Court is perfectly justified.

4.1. Yet another grievance is that, apart from the award of medical expenses, as supported by bills, the cost of attender should have been awarded and the award towards the transport expenses has not been considered. The award of pecuniary loss and loss of love and affection though considered by the tribunal, the same are not in consonance with the age and earnings of the deceased.

5. The contention raised on behalf of the claimants is that a) on the application of multiplier and b) the future prospective increase in income, the entire amount of compensation have to be reworked. Accordingly, as discussed supra, (addition towards future prospective increase in come) fixing monthly income at Rs.4,500/- adding 50% increase towards

monthly income and reducing 50% towards personal expenses(as the deceased was a bachelor) and adopting multiplier of 18, the loss of dependency is calculated at Rs.7,29,000/-. The loss of love and affection is awarded for his mother viz. Shanthi at Rs.1,00,000/-, funeral expenses at Rs.25,000/-, cost of attendant charges at Rs.25,000/- and loss of lost to estate at Rs.50,000/-, medical expenses awarded by the tribunal is confirmed and the total compensation to be awarded at Rs.15,22,000/-. The appeal is allowed to the extent indicated above. No costs.

6. It is represented that the entire award amount as determined by the Claims Tribunal has already been deposited and it has already been withdrawn by the claimants. Therefore, the enhanced amount of Rs.3,74,000/- shall be deposited by the insurance company along with interest at 7.5% per annum from the date of petition till the date of deposit within a period of four weeks from the date of the receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the compensation amount directly to the bank account of the second appellant/the mother of the deceased through RTGS within a period of two weeks thereafter. Additional Court fee shall be paid by the third appellant /claimant for the enhanced amount before obtaining the copy of the judgment. It is also made clear that the second appellant/the mother of the deceased shall not be entitled to interest for the period of delay.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

sms/kv

To

1. The III Judge,
The Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

+ 1 cc to M/s.S.VAdivel, Advocate,SR.52901
+ 1 cc to M/s.C.Veeraraghavan, Advocate,SR.52836

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KK(CO)
NR 06/11/2017