

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2292 of 2017

Tmt. R.Palaniammal

... Appellant /Petitioner

..Vs..

1. B.L.Transports,
No.90 Moore Street, II Floor,
Chennai 600 001
2. P.Periyannan
3. The United India Insurance Co. Ltd.,
No.38 Anna Salai, Chennai 600 002... Respondents /Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 10.02.2004, passed in M.C.O.P.No.3606 of 2000 on the file of the Motor Accident Claims Tribunal, IV Fast Track Court, Chennai.

For Appellant : Mr. N.Narasimhulu
For Respondents : Notice Dispensed with, for R-1 & R-2,
Mr. K.Shankaranarayanan, for R-3.

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal as inadequate, the claimant has filed this Appeal.

2. The claimant is the wife of one P.Ramesh, who is the deceased, in this case. The deceased, P.Ramesh, aged 21, a worker in B.L.Transports, earning a sum of Rs.3,000/- per month, died in an accident, on 19.05.1997. As against the claim made by the wife for Rs.5,00,000/-, the Tribunal has answered the same to the extent of Rs.2,25,000/-. Challenging the same, the wife has filed this Appeal.

3. The learned counsel appearing for the appellant / claimant would contend that the award passed by the Claims Tribunal is grossly inadequate and the monthly income fixed is very low and it is against the documentary evidence, which is filed as Ex.P-2.

3.1. The learned counsel appearing for the third respondent / Insurance Company would submit that, in the absence of acceptable documentary evidence, the monthly income should have been fixed only at Rs.1,250/-, as per the pre-amended Act and the amount of monthly income fixed by the Tribunal at Rs.1,500/- has to be reduced to Rs.1,250/-.

4. In order to appreciate the said contentions, it is necessary to look into the details of the award passed by the Claims Tribunal.

5. Based upon the postmortem certificate, the age of the deceased has been fixed as 25. Finding that Ex.P-2 salary certificate has not been proved, through examination of the person, who issued the certificate, the monthly income has been taken at Rs.1,500/-, deducting Rs.500/- towards personal expenses of the deceased, fixing the dependency at Rs.1,000/- and adopting the multiplier of '17', a sum of Rs.2,10,000/- has been awarded towards the loss of income. Awarding a sum of Rs.10,000/- towards loss of consortium and Rs.5,000/- towards cremation expenses, the total amount of compensation has been quantified at Rs.2,25,000/-.

6. The only issue to be considered, in this Appeal, is whether the said compensation awarded by the Claims Tribunal is just and reasonable.

7. The learned counsel appearing for the third respondent / Insurance Company would submit that considering the fact that the accident was happened during 1997, i.e., on 19.05.1997, the monthly income cannot be fixed more than Rs.1,250/-.

8. The notional income fixed under the enactment can be applied only in respect of persons, who are not actually earning and those who are not having earning capacity, on account of physical impairment or due to extreme old age or infancy. This is a case, where the young wife has lost her husband, who was maintaining the family with Rs.3,000/- as monthly income. The Tribunal did not even fix the monthly income at Rs.3,000/-, but has fixed the monthly income only at Rs.1,500/- and deducting Rs.500/- towards the personal expenses and fixing the monthly contribution at Rs.1,000/- has quantified the loss of dependency at Rs.2,10,000/-. Awarding Rs.10,000/- towards loss of consortium and Rs.5,000/- towards cremation expenses, the total amount of compensation is quantified at Rs.2,25,000/-.

9. The evidence of the claimant that the monthly income of the deceased was Rs.3,000/- ought to have been accepted. Deducting Rs.1,000/- towards the personal expenses and adopting the multiplier of 18, the loss of dependency would be

Rs.4,32,000/- (Rs.2,000/- x 12 x 18). Awarding a sum of Rs.10,000/- towards the cremation expenses and Rs.50,000/- towards loss of consortium to the wife, the total amount of compensation is fixed at Rs.4,92,000/-.

10. In the result, this Civil Miscellaneous Appeal is allowed, by enhancing the quantum of compensation from Rs.2,25,000/- to Rs.4,92,000/-. No costs.

11. It is the contention of the learned counsel for the third respondent that the third respondent cannot be saddled with the liability, which is more than the award amount towards payment of interest and payment of interest should be reasonably fixed, so that the interest does not exceed the award amount. It is also contended that the claimant has been lethargic in filing the appeal belatedly as well as in re-presenting the appeal papers belatedly and therefore, the rate of interest should be less.

12. No doubt, the accident had happened in the year 1997 and the claim petition has been filed in the year 2000. But the appeal has been taken up for hearing only in the year 2017. Who is responsible for this delay, whether it is the system or the appellant or the respondent? There is no specific answer.

13. Under the stated circumstances, considering the submissions made by the learned counsel for both sides, the third respondent shall deposit the amount of compensation, as awarded by this Court, along with the interest at 6% per annum, less the amount already deposited, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the entire amount shall be transferred to the account of the claimant, through RTGS.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal, IV Fast Track Court, Chennai.

2. The Section Officer, V.R.Section, High Court, Madras

+1 cc to M/s.N.Narasimhulu Advocate sr 60201

+1 cc to Mr.Sankaranarayanan Advocate sr 60233

C.M.A.No.2292 of 2017

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