

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2017

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. NO. 3082 OF 2017

1. Chandra
2. Saravanan

.. Appellants/Petitioners

- Vs -

1. M/s.Stanfab Apparels Pvt. Ltd.
No.14, East Mugapair Industrial Estate
Chennai 600 050.

2. United India Insurance Co. Ltd.
Siligi Building
No.134, Greams Road
Chennai 600 006.
- .. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.07.2017, passed by the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court), Chennai, made in MCOP No.8057/2015.

For Appellant : Mr. S.Ravikumar

For Respondent : Mr. J.Chandran for R-2

JUDGMENT

Aggrieved against the award of Rs.1,80,000/- passed by the Tribunal as against the claim for a sum of Rs.40,00,000/=, in respect of the accident in which the deceased died, the appellant, who had preferred the claim petition, are before this Court by filing the present appeal.

2. The deceased, Balan, aged 60 years, a mason by profession and earning a sum of Rs.700/- per day, died in a fatal accident on 15.9.15. The claimants, viz., the wife and son of the deceased have filed the claim petition claiming compensation in a sum of Rs.40,00,000/=. The Tribunal, considering the oral and documentary evidence placed before it, awarded a sum of Rs.1,80,000/= as compensation, the breakup of which are as hereunder :-

Loss of income (2000 X 12 X 5)	:	Rs.1,20,000/-
Loss of Consortium	:	Rs. 10,000/-
Loss of love & affection	:	Rs. 20,000/-
Transport Expenses	:	Rs. 5,000/-
Funeral Expenses	:	Rs. 25,000/-
Total Compensation :		Rs. 1,80,000/-

The present appeal has been filed by the claimant claiming enhancement of compensation.

3. Learned counsel appearing for the claimants submits that even in the year 2009, the Tribunal has fixed the monthly income, even in respect of agriculturists at Rs.6,500/- in several cases, as reported in 2009 (2) TNMAC 1 (Sarala Verma & Ors. - Vs - Delhi Transport Corporation & Anr.) and, therefore, the Tribunal was incorrect in fixing the income of the deceased at Rs.3000/- per month, but atleast ought to have fixed at Rs.6,500/- per month.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the materials available on record as also the findings rendered by the Tribunal.

5. The contention raised by the learned counsel for the appellant is well founded. The Courts, even as early as in the year 2009, has fixed the monthly income of agriculturists at Rs.6,500/- per month keeping in mind the rate of inflation, the cost of living and various other parameters. Therefore, the fixation of Rs.3000/- as the monthly income of the deceased by the Tribunal cannot be sustained. In such view of the matter, this Court fixes the monthly income of the deceased at Rs.6,500/- per month and, deducting 1/3rd towards personal expenses, arrives at the contribution of the deceased to the family at Rs.4,334/-. Adopting a multiplier of 5, as per the ratio laid down in Sarla Verma case (supra), the loss of earning is quantified at Rs.2,60,040/-.

6. This Court also finds that the loss of consortium awarded to the 1st claimant at Rs.10,000/- is on the very low side and, accordingly, the same is enhanced to Rs.40,000/-. Similarly the compensation awarded to the claimants for loss of love and affection at Rs.10,000/- each is enhanced to

Rs.20,000/- each, totalling to Rs.40,000/- under the head loss of love and affection. Transportation expenses awarded at Rs.5,000/- is enhanced to Rs.15,000/-, while the compensation awarded towards 'Funeral Expenses' is confirmed. It is seen that no amount has been awarded towards 'loss of estate'. This Court awards a sum of Rs.15,000/- under the head 'loss of estate'. In all the compensation is enhanced to Rs.3,95,040/- rounded off to Rs.3,96,000/-.

7. In the result, this civil miscellaneous appeal is allowed in part enhancing the compensation to a sum of Rs.3,96,000/= from Rs.1,80,000/= along with interest at 7.5 % per annum from the date of claim petition till date of deposit. Consequently, connected miscellaneous petition is also dismissed. However, in the circumstances of the case, there shall be no order as to costs.

8. It is submitted that the award passed by the Tribunal has already been deposited. In such circumstances, the 2nd respondent is directed to deposit the balance portion of the compensation as enhanced by this Court along with interest at 7.5% p.a. on the enhanced amount, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimants through RTGS within a period of two weeks thereafter as per percentage of apportionment ordered by the Tribunal.

Sd/-

Assistant Registrar (CS-vi)

//True Copy//

Sub Assistant Registrar

GLN
To

1. The Chief Judge,
Motor Accident Claims Tribunal
(Chief Judge, Court of Small Causes)
Chennai.

2. The Section Officer,
V.R. Section, High Court, Madras. (2 copies)

+1cc to Mr.S.RAVIKUMAR, Advocate, S.R.No. 81574

C.M.A. NO. 3082 OF 2017

BR(CO)
TR(05/02/2018)