

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.401 of 2017

1. Saradhamani
2. Natesan ...Appellants/Claimants

Vs.

1. Arunprasath
2. M/s.United India Insurance Company Limited
Sri Ranga Complex, Four Road, Salem.
3. S.Periyasamy
4. M/s.United India Insurance Co Ltd.,
Divisional Office, No.2, Dr.Sankaran Road,
Namakkal. ...Respondents/Respondents
(Notice to R1 to 3 may be dispersed with)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.454 of 2007, dated 08.10.2012 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Sankari.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.D. Baskaran for R4

JUDGMENT

The appellants are the claimants in M.C.O.P.No.454 of 2007 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Sankari. The claimants/ parents have filed the above petition for compensation for the death of their son in a motor accident that occurred on 28.04.2006. The Tribunal awarded Rs.8,20,000/- as against the claim of Rs.25,00,000/-. The third respondent is the owner of the offending vehicle. The Tribunal held that the accident occurred only due to the rash and negligent driving of the third respondent's driver. This appeal has been preferred by the appellants/claimants for enhancement of the compensation.

2. The 1st claimant / 1st appellant is the mother of the deceased and the second claimant/2nd appellant is the father of

the deceased. The offending vehicle was insured with the 4th respondent. There is no appeal filed by the insurer and insured.

3. The deceased Boopathi was aged 23 at the time of accident and he was studying final year B.V.Sc., at Namakkal Veterinary College and Research Institute. On 28.04.2006 at about 7:45 a.m. the 1st respondent and the deceased travelled on the bike bearing Reg.No.TN-30-K-5914. The deceased Boopathi was riding pillion on the said motor cycle. Near Kondichettipatti bus-stop, the driver of a tractor bearing Reg.No.TN 31 V 3209, drew the tractor in a rash and negligent manner and dashed against the said motor cycle. The rider and pillion rider were thrown off. They sustained multiple grievous injuries. The pillion rider Boopathi sustained injuries on his chest, head and bleeding injuries all over his body. After the accident, he was taken to Balaji Hospital, Namakkal for treatment and then shifted to Salem for better treatment, but he died on the way.

4. The Tribunal fixed the monthly income of the deceased at Rs.10,000/- having regard to the fact that the deceased was a student of fourth year B.V.Sc. course in Namakkal, Veterinary College and Research Institute. I do not find any error in the Tribunal fixing the monthly income as Rs.10,000/-.

5. The learned counsel for the appellants has pointed out that the tribunal omitted to add 50% of the income towards future prospects. As per the dictum in SARLA VERMA vs. DELHI TRANSPORT CORPORATION [(2009) 6 SCC 121], multiplier 18 has to be applied, as the deceased was 22. There are 2 dependants. Therefore, 1/2 of his income has to be deducted towards personal expenses of the deceased. As per the dictum laid down in RAJESH vs. RAJBIR SINGH [2013 (2) TNMAC 55 (SC)] 50% must be added to the actual income of the deceased while computing future prospects. The Tribunal has awarded a meagre sum of Rs.20,000/- under the head of loss of love and affection. The parents of the victim lost their son at the age of 22 and hence it should be enhanced to Rs.2,00,000/-. Rs.10,000/- awarded towards funeral expenses by the tribunal is to be enhanced to Rs.25,000/-. The Tribunal awarded only a reasonable amount of Rs.10,000/- towards transportation and it is confirmed. The compensation is re-assessed as follows:-

Sl.No.	Heads	Calculation
1.	Salary	Rs.10,000.00 per month
2.	50% of (i) above to be added as future prospects	[Rs.10,000.00 + Rs.5,000.00] = Rs.15,000.00 per month
3.	1/2 deducted as personal expenses of the deceased	[Rs.15,000.00 - Rs.7,500.00] = Rs.7,500.00 per month

Sl.No.	Heads	Calculation
4.	Compensation after multiplier of 18 is applied	[Rs.7,500.00 x 12 x 18] = Rs.16,20,000.00
5.	Love and Affection	Rs.2,00,000/-
6.	Funeral expenses	Rs.25,000/-
7.	Transportation	Rs.10,000/-
	Total	Rs.18,55,000.00

6. The claimants are not entitled to any interest for the period of delay of 870 days in filing the appeal. The first claimant/mother is entitled to a sum of Rs.10,00,000/- and the second claimant/father is entitled to a sum of Rs.8,55,000/-.

7. In the result, the Civil Miscellaneous Appeal is partly allowed to the extent as indicated above. The fourth respondent- Insurance Company is directed to deposit the enhanced award amount of Rs.18,55,000/- [Rupees Eighteen Lakhs Fifty Five Thousand only] with interest @ 7.5% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No.454 of 2007, on the file of the Motor Accidents Claims Tribunal cum Sub Court, Sankari, within a period of six weeks from the date of receipt of a copy of this order. The claimants are permitted to withdraw the enhanced compensation amount awarded by this Court with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. There shall be no orders as to costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

dpq
To

1. The Motor Accidents Claims Tribunal cum Subordinate Court, Sankari.

+lccc to Mr.D. Bhaskaran, Advocate Sr. 13088
+lcc to Mr.C. Kulanthaivelu, Advocate Sr. 12868

CMA.No.401 of 2017

VD(CO)
VR(5/5/2017)