

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.02.2017

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THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.Nos.5 of 2006 and

1252 of 2007

Anantalakshmi

... Appellant/Claimant
in both C.M.As

/Vs/

1. M/s.Commercial Carriers of India,
No.123, Coral Merchant Street,
Chennai - 1.

2. The Divisional Manager,
United India Insurance Co Ltd.,
16, 1st Floor, J.N.Street,
Pondicherry

... Respondents/ Respondents
in both C.M.As

Common Prayer: Civil Miscellaneous Appeals are filed against the award dated 24.04.2003 made in M.C.O.P.Nos.221 and 222 of 2002 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Pondicherry.

For Appellant

: Mr.T.P.Manoharan

Senior Counsel for M/s.D.Kamatchi
in both C.M.As

For second respondent: Mr.S.J.Jagadev

COMMON JUDGMENT

C.M.A.No.5 of 2006:

The appellant/claimant filed M.C.O.P.No.221 of 2002 on the file of the Motor Accident Claims Tribunal-cum-Principal District Judge, Pondicherry, claiming a total compensation of Rs.20,00,000/- for the death of her husband in an accident that occurred on 09.09.2000. In the same accident, the appellant

Anantalakshmi also sustained injuries. She has filed in M.C.O.P.No.222 of 2002 claiming a total compensation of Rs.1,00,000/- for the injuries sustained by her. The Tribunal awarded a compensation of Rs.45,000/- for the injuries sustained by her. The Tribunal awarded a total compensation of Rs.2,65,000/- for the death of the husband of the claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed these appeals.

2. The learned Senior Counsel appearing for the appellant/claimant submitted that the Tribunal erred in fixing the monthly income of the deceased at Rs.4,000/- per month.

3. Learned counsel for the Insurance Company submitted that in the absence of sufficient materials to prove the income of the deceased, the Tribunal has correctly fixed the monthly income at Rs.4,000/-.

4. I have gone through the evidence available on record. It is seen that the wife of the deceased has been examined as P.W.1 to speak about the salary received by the deceased at the time of accident. She has produced Ex.A-7/ appointment order, which would show that the deceased was employed. It is not in dispute that the deceased was a Bio-Chemist and he served at JIPMER, Pondicherry for about 32 years. Ex.A-6 is the Pension Payment Order of the deceased. The evidence of P.W.1 would show that the deceased earned Rs.20,000/- per month at the time of accident. Her evidence remained un-challenged and nothing has been brought out to disbelieve her evidence. Therefore, having regard to appointment order and the Pension Payment Order and the oral evidence of P.W.1, this Court is inclined to hold that the deceased, at the time of the accident, earned Rs.20,000/-. A sum of Rs.2,000/- has to be deducted towards income tax. His monthly income, therefore, to be taken as Rs.18,000/- per month. The deceased was 59 years at the time of accident. 15% of his income has to be added towards future prospects, which would come to Rs.20,700/- (Rs.18,000 + Rs.2,700). One-third of the income has to be deducted towards personal expenses and after such 1/3rd deduction, the amount arrived is Rs.13,800/- per month. His income per year would be Rs.1,65,600/-. The proper multiplier as per the decision of the Supreme Court in the case of Sarala Verma and others Vs. Delhi Transport Corporation and another (2009 (2) TN MAC 1 (SC) is '9'. Therefore, the loss of income is arrived at Rs.14,90,400/- (Rs.1,65,600/- x 9).

5. The Tribunal has awarded Rs.4,000/- towards funeral expenses. This Court deems it fit to award Rs.5,000/- towards funeral expenses. For the loss of love and affection / consortium to the claimant/wife, the Tribunal has awarded

Rs.5,000/- . Considering the age of the claimant (52), it would be appropriate to award Rs.30,000/- towards loss of consortium to the claimant. Further, the Tribunal omitted to award any amount towards transportation charges. It is not in dispute that the body was taken to hospital for post-mortem. Therefore, this Court is inclined to award Rs.5,000/- under the head of transportation charges. In view of the above, the compensation is re-assessed as follows:

Sl.No.	Heads	Calculation
1.	Salary (Rs.20,000/- less Rs.2,000/- towards income tax)	Rs.18,000/- p.m
2.	15% of (i) above to be added as Future Prospects	Rs.2,700/-
3.	1/3rd deducted as Personal Expenses of the deceased	Rs.13,800/- p.m
For 1 year		Rs.1,65,600/-
4.	Multiplier 9	Rs.14,90,400/-
5.	Loss of Consortium	Rs.30,000/-
6.	Funeral Expenses	Rs.5,000/-
7.	Transportation	Rs.5,000/-
	Total	Rs.15,30,400/-

6. The Supreme Court reported in Narendra Singh Vs. Nishant Sharma (2015 (14) SCC 353) has awarded interest at the rate of 9% per annum on the compensation awarded. Applying the dictum laid down by the Supreme Court, interest is awarded at the rate of 9% per annum on the above said compensation.

7. Accordingly, C.M.A.No.5 of 2006 is allowed in part and the second respondent/Insurance Company shall deposit the above compensation of Rs.15,30,400/- with 9% interest per annum from the date of claim petition till the date of payment. The appellant/claimant is at liberty to withdraw the award amount so deposited by the Insurance Company. There shall be no order as to costs.

C.M.A.No.1252 of 2007:-

The first respondent is the owner of the offending vehicle. It is not in dispute that the vehicle involved in the accident was insured with the second respondent. The claimant sustained injury and her husband died in the accident.

2.The injured claimant suffered lacerations over the frontal and parietal regions, over eye-lids and contusion, as could be seen from Exs.A-10 and A-11 issued by JIPMER Hospital. Dr.M.A.Suresh was examined as P.W.2. The medical evidence would

show that she suffered only two lacerated injuries, one extending over the frontal and parietal region and the other over the right upper and lower eye-lids. There is no material to show that the appellant/claimant suffered permanent disability. Having regard to the nature of the injuries sustained by the claimant, the Tribunal awarded Rs.25,000/- towards injuries, Rs.10,000/- towards pain and suffering and Rs.10,000/- towards medical expenses.

3.The learned counsel for the Insurance Company would submit that having regard to the nature of the injuries and period of hospitalization, the Tribunal has awarded just and reasonable compensation and the same does not warrant interference and that no ground is made out to enhance the amount.

4.Having regard to the date of accident and the nature of the injuries sustained by the claimant, this Court does not find any reason to differ from the findings of the Tribunal. No case has been made out for enhancement. The Tribunal awarded a just and reasonable compensation after taking into consideration all the materials available on record. The award of the Tribunal in M.C.O.P.No.222 of 2002 deserves to be upheld.

5.In the result, C.M.A.No.1252 of 2007 is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The Motor Accident Claims
Tribunal-cum-Principal District Judge,
Pondicherry.

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

C.M.A.No.5 of 2006 and
C.M.A.No.1252 of 2007

cnr(co)
rmp(11/05/17)