

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :25.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.1346 of 2006

1.N.Mani

2.M.Saraswathi

...

Appellants/Claimants

Versus

1.C.Chellappan

2.United India Insurance Company Ltd.,
Branch Office,
Edapaadi Road, Sankari.

3.Bhagyalakshmi Transports
53, Agraharam Street,
Erode.

4.United India Insurance Co. Ltd.,
Mettur Road,
Erode-11.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the award and Decreetal order dated 19.11.2003 made in M.C.O.P.No.1 of 2001 on the file of the Motor Accident Claims Tribunal / Additional District Judge/ Fast Track Court No.I, Salem .

For Appellant : Mr.K.Selvaraj

For 2nd & 4th Respondents : Mr.T.Ravichandran

For R1, R3 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and Decreetal order dated 19.11.2003 made in M.C.O.P.No.1 of 2001 on the file of the Motor Accident Claims Tribunal, / Additional District Judge/ Fast Track Court No.I, Salem .

2. The brief facts of the case leading to the claim application are as follows :

On 08.10.2000, at about 4.00 p.m, when the deceased was travelling in the 1st respondent's bus bearing Registration No.

TN 27 V 3949 from Salem to Erode, the driver of the bus had driven the same in a rash and negligent manner and suddenly hit against another bus bearing Registration No.TN 33 K4242 which was coming from Erode towards Salem. The passengers in both buses including the deceased sustained grievous injuries. When the deceased was immediately taken to hospital, she died on the way. The claimants who are the legal heirs of the deceased, claimed a sum of Rs.12,00,000/- as compensation.

3. The 1st and 3rd respondents were set exparte before the Tribunal.

4. The 2nd and 4th respondents have filed a counter statement denying the accident and also denying the averments made in the claim petition that the deceased had travelled in the said bus who is the only daughter of the claimants and also the claim made by the claimants at Rs.12,00,000/- is excessive.

5. The Tribunal, after analyzing the evidence and documents placed before it, has given a finding that the accident had occurred only due to the rash and negligent driving on the part of the driver of the 1st respondent bus which came in the opposite direction. But, on considering the arguments by the respondent Insurance Company that both the vehicles were involved in the accident, after observing the negligence, the Tribunal fixed the liability on the 2nd respondent. Regarding the quantum claimed by the claimants, the Tribunal has awarded a sum of Rs.4,40,000/- under the following heads:

Heads	Amount awarded by the Tribunal Rs.
For Disability	4,20,000.00
For Funeral Expenses	2,000.00
For Love and Affection	5,000.00
For Loss of Estate	13,000.00
TOTAL	4,40,000.00

Aggrieved against the said order, the claimants have preferred this appeal for enhancement.

6. In the grounds of appeal, it has been stated that when the victim died at the age of 21 years, the multiplier applied by the Tribunal is not proper. Further, the sum fixed by the Tribunal at Rs.2,500/- per month as monthly income is also very

much on the meager side, when the deceased was a B.Tech graduate and was earning Rs.6000/- to Rs.7000/- at the time of accident. It is also the ground raised in the appeal that even for getting admission in the college, the claimants have spent huge amount and also incurred educational expenses for her studies. The sum awarded under the various heads as loss of love and affection, loss of estate are all on the lower side. Without considering the capacity, other educational qualification, earning capacity and the life long support to the family members even after the marriage , the award passed by the Tribunal is not proper.

7. Heard the learned counsel for the appellant as well as the learned counsel for the 2nd respondent and also perused the documents available on record.

8. On perusal of the judgement and also arguments advanced by the appellant, it is seen that the deceased who died in the said accident is an Engineering graduate and that was very much proved by Ex.P6 issued by the Principal of the concerned college. It is also the evidence on the part of the petitioner that immediately after completion of studies, she started working in the same college as Lecturer and she was also earning Rs.6000/- per month. Hence, the deceased who was a meritorious candidate and even employed immediately after her studies in the same college, her income of Rs.6,000/- was also spoken before the Tribunal. However, the Tribunal has taken the monthly income at Rs.2,500/- and awarded a sum of at Rs.4,20,000/- by taking multiplier at 14 towards loss of income. It is the grievance of the appellants that the Tribunal has not applied the proper multiplier. The proper multiplier for the age group between 21 and 25 is 18. As per Ex.P3- postmortem certificate, the age of the deceased is 21 years, hence multiplier 18 is taken and accordingly, loss of income is calculated at Rs.5,40,000/- without changing the monthly income fixed by the Tribunal (Rs.2,500/- per month). Regarding the sum awarded for loss of love and affection, the sum awarded by the Tribunal at Rs.5000/- is found not reasonable one and hence, for loss of support and affection enhancing Rs.20,000/- would be the reasonable amount and for loss of estate fixing the amount at Rs.15,000/- would be the reasonable one. Likewise, for the funeral expenses a sum of Rs.15,000/- would be the proper amount.

9. Hence, this Court modified the award under the following heads:

Heads	Amount awarded by the Tribunal Rs.	Amount modified by this Court Rs.
For Loss of Income	4,20,000.00	5,40,000.00

Heads	Amount awarded by the Tribunal Rs.	Amount modified by this Court Rs.
For Funeral Expenses	2,000.00	15,000.00
For Loss of Support and Affection	5,000.00	20,000.00
For Loss of Estate	13,000.00	15,000.00
TOTAL	4,40,000.00	5,90,000.00

10. With the above enhancement, this Civil Miscellaneous Appeal is allowed. No costs.

11. Accordingly, the 2nd respondent is directed to deposit the entire award amount, in respect of above Appeal as per the modified award passed by this Court, with interest and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the claimants' bank account through RTGS within one week thereon. The interest awarded by the Tribunal at 9% per annum is reduced to 7.5% per annum.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
Additional District Judge/
Fast Track Court No.I, Salem .

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

+1cc to Mr. K.Selvaraj, Advocate, S.R.No. 73332

+1cc to Mr. T.Ravichandran, Advocate, S.R.No. 73527

C.M.A. No.1346 of 2006

GJ(CO)

GN(27/05/2019)