IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.3455 of 2006

1.R.Dhanabakiam
2.R.Maickam@Manickavasakam
3.C.Valliammal
4.R.Chinnusamy
... Appellants / Petitioners/Claimants
..Vs..
1.R.Loganathan
2.M/s. United India Insurance Company Limited,
Divisional Office No.1,
No.104/A, Peramanur Main Road,
Salem-638 011.
... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 13.04.2005 made in M.C.O.P.No. 885 of 2004 on the file of Motor Accidents Claims Tribunal cum Principal District Judge, Salem.

For Appellants : Mr.R.Neelakandan
For Respondents: R1 - Exparte
Mr.N.Vijayaraghavan for R2

JUDGMENT

The appellants are the claimants in M.C.O.P.No. 885 of 2004 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Salem.

2.The brief facts of the case of the appellants/claimants is as follows:

On 20.03.2004 at about 03.15 pm, the deceased Ramasamy was riding his two wheeler TVS 50 bearing Registration No. TN 34 A 0959 on Tiruchengode - Namakkal main road, At that time, a speeding Mahandra Jeep bearing Registration No. PY 01 H 2422 hit the two wheeler driven by the deceased, as a result of which, the deceased was thrown out of his vehicle and sustained multiple injuries all over his body. He was immediately rushed to the Government Hospital, Tiruchengode, from where he was shifted to Government Hospital, Erode and again he was shifted to National Hospital, Erode. However, he succumbed to injuries on the same date of accident.

3.According to the appellants/claimants, the rash and negligent driving of the driver of the Mahandra Jeep bearing Registration No. PY 01 H 2422 was the cause of the accident and that since the said vehicle was insured with United India Insurance Company Limited, both of them are jointly and severally liable to pay compensation to them.

4.The trial court after analysing the evidence on record, awarded a compensation of Rs. 5,01,000/- together with interest at the rate of 9% per annum from the date of filing of claim petition till the date of deposit. Aggrieved over the quantum of compensation, the present appeal is filed by the appellants/claimants under Section 173 of Motor Vehicles Act, 1988.

5.Mr.R.Neelakandan, learned counsel appearing for the appellant would contend that the deceased was working as a Production Manager in Allwin Laboratories and was earing a monthly income of Rs.10,500/- and that the trial court has fixed the notional income of the deceased as Rs.4,000/-, which is very meagre.

6.A perusal of the records shows that the appellants/ claimants did not adduce any acceptable evidence to show that the actual income of the deceased was Rs.10,500/- per month and have marked only a salary certificate (Ex.A8) written in a letter pad issued by the Proprietor, Allwin Laboratories. The said Proprietor was also not examined before the trial court. Therefore, the trial court rightly did not consider the monthly income of the deceased as Rs.10,500/- per month.

7.Now, since the accident took place in the year 2000, a sum of Rs.4,500/- is taken up for calculating the loss of dependency. As the age of the deceased was 40 years, multiplier 15 is adopted as per the decision of the Honourable Supreme Court in Sarla Varma & others vs. Delhi Transport Corporation & another. As the deceased was a salaried person, 25% should be added to his income towards future prospectus as per the decision of Constitution Bench of the Supreme Court in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601. Since, there are four claimants, 1/3 is deducted towards personal expenses of the deceased. Therefore, the loss of dependency after adding 25% comes to Rs.6,75,000/-. Apart from this, a sum of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- is awarded towards loss of consortium, funeral expenses and loss of estate of the deceased respectively as per Pranay sethi case (cited supra). The appellants/claimants have produced the medical bills to the tune of Rs.14,000/- and this amount is added to the award amount. Thus, the compensation amount is enhanced as detailed below:

Calculation:

Notional Income = Rs.4,500/-
25% Future Prospects = Rs.1,125/-
Total = Rs.4,500/- + Rs,1,125 = Rs.5,625/-

Multiplier Method:

= Rs.5,625/- * 12 * Multiplier 15 * 1/3 deduction
= Rs.10,12,500/- * 2/3
= Rs.6,75,000/-

S.No	Head	Amount granted
1.	Loss of dependency	Rs.6,75,000/-
2.	Loss of consortium	Rs. 40,000/-
3.	Loss of estate of the deceased	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
5.	Medical expenses	Rs.14,000
	Total	Rs.7,59,000/-

Thus, the award amount shall carry an interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit. The United India Insurance Company is directed to deposit the enhanced award amount less the deposit already made by them within a period of four weeks from the date of receipt of a copy of this order and the award amount shall be apportioned in the same ratio as per the orders passed by the trial court.

7.With the above observations, the Civil Miscellaneous appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mbi
To
The Principal District Judge,
Salem.

+1cc to Mr.R.Neelakandan , Advocate SR.No. 78841
+1cc to Mr.B.Gopalan , Advocate SR.No. 79349

C.M.A.No.3455 of 2006
mr co A.SK(09/07/2019)