

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.3179 of 2008

1. G.Rajammal
 2. P.Ganesan
- ... Appellants/Claimants

Vs.

1. M/s S.S.V.Transport,
No.2/138, Venkatesan Street,
Medavakkam, Chennai 601 302
(exparte in the trial court)
 2. United India Insurance Company Limited,
No.38, Annasalai,
Chennai 600 002.
-
Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the quantum of Award dated 22.04.2008 passed in M.C.O.P.No.4048 of 2006 by the Chief Judge, Motor Vehicle Accidents Claims Tribunal, Court of Small Causes, Chennai.

For Appellants : Mr.N.M.Muthurajan

For 2nd Respondent : Mr.D.Bhaskaran

First Respondent : Exparte before Tribunal

J U D G M E N T

The appellants are the claimants in MCOP No.4048 of 2006 on the file of the Chief Judge, Motor Vehicle Accidents Claims Tribunal, Court of Small Causes, Chennai

2. The claimants filed the claim petition in MCOP No.4048 of 2006 seeking compensation of Rs.10,00,000/- for the death of their son G.Manickam, who died in a road accident that took place on 09.09.2006.

3. The brief case of the appellants/claimants is as follows. On 09.09.2006, the deceased G.Manickam was walking along the Old Mahabalipuram Road. At about 16.30 hours, when he was nearing Latec Ideal Park, Sholinganallur, a speeding van bearing registration No. TN-09-J-2211, belonging to the first respondent hit the deceased, as a result of which, he sustained injuries. Immediately, he was rushed to the Government Hospital, where, he succumbed to injuries. According to the claimants, rash and negligent driving of the driver of the first respondent was the cause of the accident and since the van was insured with the 2nd respondent, both of them are liable to pay compensation to the appellants/claimants. It is also their contention that their son was employed as a house keeper in M/s Accenture Software company, Solinganallur earning a sum of Rs.5,000/- per month.

4. The first respondent remained absent and was set exparte in the trial court.

5. The 2nd respondent filed a counter affidavit before the tribunal, denying all the allegations of the claimants.

6. After analysing the evidence on record, the tribunal awarded a compensation of Rs.4,05,000/- together with interest at the rate of 7.5% per annum. Not satisfied with the quantum of compensation awarded by the tribunal, the appellants have filed the present appeal seeking enhancement of compensation amount.

7. Mr.N.M.Muthurajan, learned counsel appearing for the appellants would contend that the tribunal did not award any amount towards future prospects and multiplier was also wrongly applied as '10' instead of '18'. Hence, he prayed for enhancement of compensation.

8. A perusal of the records shows that the tribunal fixed monthly income of the deceased as Rs.3,000/- per month and adopted multiplier of '10'. As per the decision in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier is 18, since the deceased was aged 19 years on the date of accident. Further more, as per the decision of a Constitution Bench of the Honourable Supreme Court in National Insurance Company Vs. Pranay Sethi and others reported in 2017(2) TN MAC 601, future prospects at 40% should be added to the income of the deceased. As far as the present case is concerned, the contention of the appellants is that their son was earning a sum of Rs.3,500/- per month and Rs.1,500/- towards overtime. Though no documentary evidence was adduced to prove the same, considering the fact

that the deceased was employed in M/s M/s Accenture Software company, Solinganallur as house keeper, a sum of Rs.4,500/- is fixed as monthly income of the deceased. To this, 40% is added towards future prospects (4,500+1800=6300). Since the deceased was bachelor on the date of accident, half of the amount has to be deducted towards his personal expenses. Therefore, Loss of dependency is awarded at (3150x12x18) Rs.6,80,400/-. In addition to that, the claimants are entitled to Rs.15,000, Rs.15,000/- and Rs.40,000/- towards Loss of Estate, Funeral Expenses and Loss of consortium respectively. The revised award of compensation under various heads is extracted hereunder.

Sl.No	Heads	Amount
1	Loss of dependency (3150x12x18)	6,80,400
2	Loss of consortium	40,000
3	Loss of Estate	15,000
4	Funeral Expenses	15,000
	Total	7,50,400

This amount will carry interest at the rate of 7.5% per annum from the date of claim petition.

9. In the result,

(i) The appeal is allowed. No costs.

(ii) The appellants/claimants are entitled to a compensation of Rs.7,50,400/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

(iv) The respondent is directed to deposit the enhanced compensation amount of Rs.7,50,400/- with accrued interest, less the amount already deposited, within 4 weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the claimants are entitled to withdraw the same, as per the apportionment given by the tribunal and after following due process of law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mst

To

1. The Chief Judge,
Motor Vehicle Accidents Claims Tribunal,
Court of Small Causes, Chennai
2. The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.N.M.Muthurajan, Advocate Sr.No.82088

+1 cc to Mr.D.Bhaskaran, Advocate Sr.No.82106

CMA.No.3179/2008

GJ-II(CO)
CSL/08.01.2019



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