

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 145 of 2018

A. Murugan ..Appellant/Claimant

Vs.

1. S. Karthick

2. National Insurance Company Ltd.,
D.No. 185/1, Royal Towers,
Meyyanur Road,
Opp: ARRS Multiplex Theatre,
Salem - 4.
Having its office at
No.75-A, Paramathi Road,
Namakkal Town.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 05.08.2017 passed in M.C.O.P. No. 263 of 2015 by the Motor Accidents Claims Tribunal (Principal District Judge), Namakkal.

For Appellant :: Mr.R. Nalliyappan

For Respondents:: Mrs.N.B. Surekha for R2

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been preferred by the claimant, as against the award of Rs.8,73,000/- passed by the Motor Accidents Claims Tribunal (Principal District Judge), Namakkal, in M.C.O.P. No.263/2015, for the death of one Jayanthi, wife of the claimant, in the accident, which occurred on 04.03.2015.

2. Heard Mr.R. Nalliyappan, learned counsel for the appellant and Mrs.N.B. Surekha, learned counsel for the 2nd respondent Insurance Company.

3. It is the admitted case of the parties that the appellant's wife met with her fate, when the share auto, in which she was travelling, was hit by the bus bearing Registration No. TN-30-AK-7755 belonging to the 1st respondent, insured with the 2nd respondent Insurance Company. In the said accident, the appellant's wife died on the spot. Hence, the claim petition.

4. On contest, the Tribunal found that the accident occurred because of the rash and negligent driving of the bus driver and awarded a sum of Rs.8,73,000/-, taking the monthly income of the deceased at Rs.6000/-, in the absence of any proof and deducting one-third towards "Personal Expenses" and applying multiplier 18.

5. Though the Tribunal rightly fixed Rs.6000/- as the monthly income of the deceased, in the absence of any proof regarding income, no amount was awarded towards "Future Prospects". Therefore, this Court adds 40% towards "Future Prospects" as the deceased was hardly aged about 25 years, following the judgment in *Pranay Sethi's case* (2017 ACJ 2700). Therefore, adding 40% towards "Future Prospects", the "total monthly income" comes to Rs.8400/- (Rs.6000 + 40%(Rs.6000)). One-third deduction was rightly made by the Tribunal towards "Personal Expenses" following the judgment of the Honourable Apex Court in *Sarla Verma's case* ((2009) 6 SCC 121) as the deceased was a married woman. Accordingly, applying one-third deduction, the "Monthly Contribution of the deceased to her family" would come to Rs. 5600/- (Rs.8400 (-) 1/3(Rs.8400/-)). The appropriate multiplier for the age of 25 years is 18 and therefore, applying the said multiplier, "Loss of Income" would come to,

Loss of Income :: Rs.5600 x 12 x 18
:: Rs.12,09,600/-

6. The sum of Rs.2000/- awarded towards "Loss of Love and Affection" is enhanced to Rs.40,000/- and awarded under the head "Loss of Consortium". The amount of Rs.5000/- granted towards "Funeral Expenses" is enhanced to Rs.15,000/- and Rs.2000/- awarded towards "Loss of Estate" is enhanced to Rs.15,000/-. Since no amount was awarded towards "Transport Expenses", a sum of Rs.10,000/- is awarded. The total compensation payable to the appellant comes to,

Loss of Income	::	Rs.12,09,600/-
Funeral Expenses	::	Rs. 15,000/-
Transport Expenses	::	Rs. 10,000/-
Loss of Estate	::	Rs. 15,000/-
Loss of Consortium	::	Rs. 40,000/-

Total :: Rs.12,89,600/-

The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

7. The 2nd respondent Insurance Company is directed to deposit the entire award amount, with interest and costs, as per the modified award passed by this Court, before the Tribunal, after deducting the amount already deposited, if any, 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 amount to the bank account of the appellant through RTGS within a period of one week thereafter.

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.8,73,000/- is enhanced to Rs.12,89,600/- with interest @ 7.5% per annum. No costs.

Sd/-

Assistant Registrar(co)

// True Copy//

Sub Assistant Registrar

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

Copy to: The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate Sr.No.35568

+1cc to Mr.N.B.Surekha, Advocate Sr.No.35403

SSI(CO)

sm:6.8.2018

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