

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.567 of 2011

1. Anandhi

2. Karunakaran (Minor)

Represented by his Sister and next friend Anandhi

3.Rajalakshmi (Died)

.... Appellants/Claimants

Vs.

1. B.Rajendran

2. United India Insurance Company Limited,
No.235, New Military Road,
Avadi, Chennai - 54.

.... Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the quantum of Award passed in M.C.O.P.No.393 of 2007 dated 28.07.2010 on the file of the Motor Vehicle Accidents Claims Tribunal, Additional District and Sessions Court (Fast Track Court No.2), Poonamallee.

For Appellants : Ms.Y.Jayanthi Bhaskaran
for Mr.J.Mahalingam

For 2nd Respondent : Mr.D.Bhaskaran

For 1st Respondent : No appearance

सत्यमेव जयते

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.393 of 2007 on the file of the Motor Vehicle Accidents Claims Tribunal, Additional District and Sessions Court, (Fast Track Court No.2), Poonamallee.

2. The facts of the case of the appellants/claimants are briefly as follows. On 22.05.2006 at about 20.30 hours, while the deceased Lakshmi was crossing the road on the pedestrian crossing at the junction of 100 feet Road, Vadapalani, a car bearing registration No. TN 10 M 9309 came

with a high speed and dashed against the deceased Lakshmi, as a result of which, she sustained multiple injuries and she was rushed to the Government Hospital at Chennai. However, she succumbed to the injuries on 24.05.2006. According to the claimants, the driver of the first respondent was responsible for the accident and that since the first respondent has insured his vehicle with the 2nd respondent, both the respondents are jointly and severally liable to pay compensation to the claimants.

3. The first respondent remained absent and was set exparte and the second respondent denied all the allegations of the claimants.

4. After considering the entire evidence on record, the Tribunal awarded a compensation of Rs.4,09,000/- together with interest at the rate of 7.5% p.a. The break-up of figures extracted here under.

Sl.No	Heads	Amounts in Rs.
1	Loss of income (Rs.2,000 x 12 x 16)	3,84,000
2	Love and affection	20000
3	Funeral expenses	5000
	Total	4,09,000

5. Aggrieved over the quantam of compensation, the appellants/ claimants have filed the present appeal for enhancement of the Award amount.

6. Ms. Y.Jayanthi, learned counsel appearing for the appellants would contend that the trial court has not granted any amount towards future prospects and no compensation was awarded under the heads 1. Loss of Estate to the deceased and 2. transportation charges. She would further contend that a very meagre amount of Rs.20,000/- was awarded towards love and affection for the petitioners. According to her, the claimants 1 and 2 were minors at the time of the accident and the 3rd claimant, who is the mother of the deceased is now dead and that there is no one to take care of the claimants.

7. In the decision rendered by the Constitution Bench of the Honourable Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TNMAC 601, it is held that if the deceased person is a self employed and aged below 40 years, future prospects has to be added. In the instant case, the deceased was aged 35 years on

the date of the accident. According to the claimants, the deceased was earning Rs.120/- per day and therefore, monthly income of the deceased is taken up as Rs.3,000/- per month. After adding 40% of the income for future prospects, the monthly income of the deceased is arrived at Rs.4,200/- and after deducting 1/3 amount for her personal expenses (i.e. 4200-1400 = 2800), the income of the deceased Lakshmi is fixed at Rs.2,800/- Since the deceased was aged below 40 years, proper multiplier is 16. Thus, loss of income is Rs.5,37,600. In addition to that, as per the decision rendered by the Constitution Bench of the Honourable Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TNMAC 601, a sum of Rs.15,000/- is awarded towards loss of estate. As far as the Head of Love and affection is concerned, the Tribunal has awarded only a sum of Rs.20,000/-. As already stated, one of the claimants, the mother of the deceased, who was taking care of both the present appellants also died and now, no one is there to take care of the appellants. Hence, a sum of Rs.40,000/- is awarded towards Loss of love and affection and a sum of Rs.15,000/- is awarded towards funeral expenses. Likewise, a sum of Rs. 15,000/- is awarded towards transportation.

8. In fine, the amount of compensation awarded by the Tribunal is enhanced from Rs.4,09,00/- to Rs.6,22,600/-, as follows:

Sl.No	Heads	Amounts in Rs.
1	Loss of income	5,37,600
2	Loss of Estate	15,000
3	Loss of Love and affection	40,000
4	Funeral Expenses	15,000
5	Transportation	15,000
	Total	6,22,600

Accordingly, a total sum of Rs.6,22,600/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit is awarded.

9. In the result,

(i) The appeal is allowed and a sum of Rs.6,22,600/- (Rupees six lakhs twenty two thousand and six hundred only) is awarded to the appellants/ claimants as compensation together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit. The 2nd respondent is directed to deposit the enhanced compensation amount along with interest to the credit of M.C.O.P.No.393 of

2007 on the file of the Motor Vehicle Accidents Claims Tribunal, Additional District and Sessions Court, (Fast Track Court No.II) Poonamallee, within a period of four weeks from the date of receipt of a copy of this order.

(ii) On such deposit being made by the 2nd respondent/insurance company, the claimants are at liberty to withdraw the same, as per the apportionment made by the trial court.

(iii) The claimants are directed to pay necessary court fee for the enhanced amount of the award amount. No costs.

(iv) No order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Additional District and Sessions Judge
Fast Track Court No.2,
Motor Vehicle Accidents Claims Tribunal,
Poonamallee .

Copy to:

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

+2cc to Mr.J.Mahalingam, Advocate sr.77344

+1cc to Mr.D.Bhaskaran, Advocate sr.77150

CMA.No.567 of 2011

nri(co)
nr 30/05/2019

WEB COPY