

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1976 of 2016

1.G.Rajeswari

2.P.Giri

Appellants/Petitioners

Vs.

1.B.Dineshkumar

2.M/s.Bajaj Allianz General Insurance Co. Ltd.,  
No.25/26, Prince Tower, IV Floor, College Road,  
Chennai - 600 006. ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 23.02.2015 passed in MCOP.No.1897 of 2010 by the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.T.G.Ravichandran  
For Respondents : Mr.S.Arunkumar (for R2)

ORDER

This Civil Miscellaneous Appeal has been preferred by the claimants/Appellants against the judgment and decretal order made in MCOP.No.1897 of 2010 dated 23.02.2015 by the Chief Motor Accident Claims Tribunal (I Court of Small Causes), Chennai.

2.I heard Mr.T.G.Ravichandran, learned counsel for the appellants and Mr.S.Arunkumar, learned counsel for the 2<sup>nd</sup> respondent and perused the entire materials available on record.

3.The appellants herein, the claimants filed a claim petition in MCOP.No.1897 of 2010 on the file of the learned Chief Motor Accident Claims Tribunal (I Court of Small Causes) Chennai, claiming compensation of Rs.20,25,000/- for the death of G.Senthilvelan in a Road Traffic accident which took place on 03.08.2009 at about 10.30 hrs., while he was pillion rider of the two wheeler bearing Registration No.TN-03-8638 in the left side of Ibrahim Salai in front of Shipping Service Centre at that time the rider of two wheeler bearing registration No.TN-

03-8638 ride the vehicle in a rash and negligent manner and skit and thereby caused accident and the victim / deceased sustained grievous injuries and admitted where he was died on 05.08.2009.

4.The 1<sup>st</sup> respondent is the owner of the two wheeler bearing registration No.TN-03-8638 and the 2<sup>nd</sup> respondent is the insurer of the said two wheeler bearing registration No.TN-03-8638. The 1<sup>st</sup> respondent was set exparte before the Tribunal. The 2<sup>nd</sup> respondent is contested the claim by filing counter statement separately. The 1<sup>st</sup> claimant is mother of deceased, the 2<sup>nd</sup> claimant is father of the deceased.

5.In order to prove the claim, PW1 to PW3 were examined and Exs.P1 to P21 were marked on the side of the claimants. No evidence was adduced by the 2<sup>nd</sup> respondent.

6.The Tribunal after considering the evidence on record and also hearing both sides, held the deceased died only due to rash and negligent driving of the 1<sup>st</sup> respondent vehicle and awarded a sum of Rs.16,27,000/- as compensation with interest at the rate of 7.5% per annum and cost and directed the respondents to pay and deposit the above amount of compensation.

7.Aggrieved by the quantum of compensation awarded by the Tribunal, the claimants preferred this appeal before this Court.

8.The learned counsel appearing for the appellants/claimants contends that the Tribunal awarded very meager amount as compensation. The future prospects and other aspects were not considered properly by the Tribunal. Hence, the appellants seek enhancement of the award amount by entertaining the appeal.

9.Per contra, the learned counsel for the 2<sup>nd</sup> respondent / Insurance Company contended that the Tribunal without appreciating the evidence properly wrongly awarded huge amount as compensation and the same is unsustainable. Thus the 2<sup>nd</sup> respondent seeks dismissal of this appeal.

10.The deceased is stated to be employed as CAS Draftsman in M/s.Carmel Softech (P) Ltd., and earned a sum of Rs.14,000/- per month and marked Educational Certificates of the deceased Ex.P9 to Ex.P11, the appointment order marked as Ex.P20, regards Salary Ex.P22 Salary Certificate was marked.

11.The Tribunal took the monthly income of the deceased as Rs.14,000/- and failed to consider the future prospect, this Court is of the view that considering the age of the deceased was 25 years, the relevant multiplier of 18 years of the deceased. Further the deceased being a young man working as CAD Draftsman in M/s.Carmel Softech (P) Ltd., following the Pranay Sethi case, if any self employed person aged less 40 years 50%

of the income is to be taken as future prospects. Following the Sarala Verma case the multiplier is 18. As such the loss of the dependency is calculated, he is entitled for future prospects. Hence 40% future prospects is necessarily to be added. Since the deceased was a bachelor, 50% deduction is to be made on his income. Accordingly, the pecuniary loss to the claimants is as under:-

Rs.14,000/- + 40% future prospects - 50% deduction towards personal expenses.

Rs.14,000/- + Rs.5600 = Rs.19,600/-

Rs.19,600/- - 50% = Rs.9,800/-

Rs.9,800/- X 12 X 18 = Rs.21,16,800/-

Thus the appellants / claimants are entitled to Rs.21,16,800/- towards loss of dependency / pecuniary loss, the deceased, determined the loss of income due to the death of the deceased as Rs.22,16,800/-. The Tribunal has awarded a sum of Rs.80,000/- in other heads and the same was so high and decreased to Rs.30,000/- in other heads and the same was so high and decreased to Rs.30,000/- as per the guidelines of full bench judgment in Pranay Sethi and other case, the medical expenses of Rs.35,000/- is confirmed.

12.Hence, the award of Rs.16,27,000/- granted by the Tribunal is enhanced to Rs.21,81,800/-. The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellants/claimants are directed to pay additional Court fee of Rs.1,568/-. In view of the above modified award amount, the 2<sup>nd</sup> respondent/Insurance Company is directed to deposit the award amount, less the amount if any already deposited along with accrued interest within a period of six weeks from the date of receipt of a copy of this Judgment and recover the same from the 1<sup>st</sup> respondent/owner of the vehicle. On such deposit, the claimants are permitted to withdraw the amount awarded as above by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursed of the amount as stated supra on the filing of such application to the personal savings bank account of the appellant through RTGS/NEFT system. In other aspects the award of the Tribunal is confirmed. The appellants are directed to pay the deficit court fee within a period of four weeks from the date of receipt of the copy of this judgment.

13.In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Motor Accident Claims Tribunal  
Chief Judge, Small Causes Court, Chennai.
  2. The Section officer  
VR Section, High Court, Madras 104.(2 copies)
- +1 CC to Mr.S.Arunkumar, Advocate sr 63625.  
+1 CC to Mr.T.G.Ravichandran, Advocate sr 63529.

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SKV(CO)  
SP(18/03/2019)



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