

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

C.M.A. No. 2507 of 2015

1. V. Maragadam
 2. Minor. Gomathi Sathya
 3. Minor. Jayasuriya
- Minors 2 & 3 represented by their
next friend/natural guardian/mother
No.1 V. Maragadham ..Appellants/Petitioners

Vs.

1. A. Natesan
2. The New India Assurance Co. Ltd.,
No.12/1, Kamaraj Road,
Mahalingapuram, Pollachi,
Coimbatore District. ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 24.04.2015 passed in M.C.O.P. No. 52 of 2014 by the Motor Accidents Claims Tribunal/Additional District Court No.3, Dharapuram.

For Appellants :: Mr.N.S. Sivakumar

For Respondent :: Mr.J. Chandran for R2

1st Respondent :: No Appearance

J U D G M E N T

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

Aggrieved over the quantum of compensation awarded to the tune of Rs.12,05,180/- by the Motor Accidents Claims Tribunal (Additional District Court No.3), Dharapuram, in M.C.O.P. No. 52 of 2014 by order dated 05.03.2014, for the death of one Veeramuthu, aged about 42 years, Ex-Serviceman, working as Security Guard, earning about Rs.10,000/- per month, apart from Rs.7000/- as pension from Army, the legal heirs of the said

Veeramuthu, namely, wife and children are before this Court in this appeal.

2. Heard Mr. N.S. Sivakumar, learned counsel for the appellants and Mr. J. Chandran, learned counsel for the 2nd respondent Insurance Company.

3. The only issue is with regard to the quantum of compensation awarded by the Tribunal.

4. Before the Tribunal, as per Ex-P11, it was proved that the deceased was getting pension of Rs.7,632/- and as the deceased was, at the relevant point of time, working as a Security Guard, the Tribunal determined the monthly income of the deceased at Rs.10,000/-. However, the Tribunal did not add any amount towards "Future Prospects". Since the age of the deceased was 42 years, 25% has to be added towards "Future Prospects" as he was working in a Private Agency as Security Guard in the light of the judgment of the Constitution Bench of the Honourable Supreme Court rendered in National Insurance Company Limited V. Pranay Sethi and others reported in 2017 ACJ 2700. Therefore, adding 25% towards "Future Prospects", the total monthly income would be,

Monthly Income	::	Rs.10,000/-	
ADD: 10% towards "Future Prospects"	::	Rs.10,000/-	((+) 25%
(Rs.10,000/-)			

Total Monthly Income	::	Rs.12,500/-
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The size of the family is three and therefore, one-third deduction has to be made towards "Personal Expenses" of the deceased, as rightly done by the Tribunal. Therefore, deducting one-third towards "Personal Expenses", the "Monthly Contribution of the deceased to his family" would be,

Total Monthly Income	::	Rs.12,500/-
Less: 1/3 rd towards "Personal Expenses"	::	Rs.12,500 (-)
		1/3

(Rs.12,500/-)

Monthly Contribution	::	Rs.8333/-
Annual Contribution	::	Rs.8333 x 12
	::	Rs.99,996/-

For the age of 42 years, the appropriate multiplier to be adopted is "14" as per the judgment of the Honourable Apex Court in Sarla Verma's case (2009 (6) SCC 121). Therefore, applying the said multiplier, "Loss of Income" is determined as hereunder:

Loss of Income	::	Rs.99,996 x 14
	::	Rs.13,99,944/-

The Tribunal has awarded Rs.40,000/- towards " Loss of Consortium" and the same is confirmed. As per the Constitution Bench's judgment of the Honourable Apex Court in Pranay Sethi's case (2016 ACJ 2007), Rs.10,000/- awarded towards "Funeral Expenses" is enhanced to Rs.15,000/-. No amount was awarded towards " Loss of Estate" and therefore, following the above said judgment of the Honourable Apex Court, a sum of Rs.15,000/- is awarded. The amount of Rs.5,124/- awarded towards " Medical Expenses" based on Ex-P6 Medical Bills is confirmed.

5. Further, the Tribunal has awarded Rs.30,000/- towards " Loss of love and affection" to the children. Since the minors lost their father at a very young age, they have been deprived of his love and affection, care and guidance throughout their lives, which cannot be compensated by any amount of money. The amount awarded towards " Loss of Love and Affection" is akin to " Loss of Consortium" awarded to the spouse. Therefore, in an endeavour to do complete justice, this Courts awards a sum of Rs.50,000/- each to the children, totally amounting to Rs.1 lakh under the said head. A sum of Rs.10,000/- is awarded towards " Transport Charges". Hence, the break-up details of compensation payable to the appellants is as hereunder:

Loss of Income	::	Rs.13,99,944/-
Loss of Consortium	::	Rs. 40,000/-
Loss of Love and Affection	::	Rs. 1,00,000/-
Funeral Expenses	::	Rs. 15,000/-
Transport Charges	::	Rs. 10,000/-
Loss of Estate	::	Rs. 15,000/-
Medical Expenses	::	Rs. 5,124/-
Total	::	Rs.15,85,068/-
rounded off to	::	Rs.16,00,000/-

6. The rate of interest awarded by the Tribunal @ 7.5% per annum remains intact. The apportionment of the award amount shall be as per the ratio fixed by the Tribunal.

7. The 2nd respondent Insurance Company is directed to deposit the entire award amount, along with interest and costs, before the Tribunal, as per the modified award passed by this Court, 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 respective share of the major claimant, to her bank account, through RTGS, within a period of two weeks thereafter. The share of the minor claimants shall be deposited in interest bearing Fixed Deposit in any one of the Nationalised Banks, till they attain majority. The 1st appellant

is permitted to withdraw interest accruing on such deposit once in three months. The appellants shall pay additional court-fee, if any.

8. In fine, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation awarded by the Tribunal from Rs.12,05,180/- to Rs.16,00,000/-. No costs.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

To

1. The MACT (Addl. District Court No.3),
Dharapuram.
2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.N.S. Sivakumar, Advocate sr 26945.

+1 CC to Mr.J. Chandran, Advocate sr 26842.

C.M.A. No. 2507 of 2015

SJ(CO)
SP(21/06/2018)

सत्यमेव जयते

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