

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.59 of 2018
and C.M.P.No.766 of 2018

The Commissioner of Police,
Egmore, Chennai - 8. Appellant/Respondent

Vs.

1. P.Saraswathi @ Sarasu
 2. P.Naresh Kumar
 3. J.Divya
- Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2017 in M.C.O.P.No.6347 of 2014 passed by the Motor Accident Claims Tribunal, (The Chief Judge), Chennai.

For Appellant : Mr.M.Venkadesh Kumar,
Government Advocate (C.S)

For Respondents : Mr.M.Swamikkannu

J U D G M E N T

The owner of the vehicle has filed this Civil Miscellaneous Appeal against the judgment and decree dated 27.02.2017 in M.C.O.P.No.6347 of 2014 passed by the Motor Accident Claims Tribunal, (The Chief Judge), Chennai, on the ground that the deceased was under the influence of alcohol at the time of accident. The accident had taken place only due to the reckless act of the deceased and the driver of the vehicle was not at all responsible for the accident.

2. On a perusal of the evidence, one Srinivasan was examined as R.W.1, who is the driver of the vehicle and no documents were marked on the side of the respondents. There is no proof that

the deceased was under the influence of alcohol at the time of accident.

3. The Tribunal had taken a sum of Rs.8,000/- as notional income of the deceased and added 30% towards future prospects and after deducting 1/3 towards personal expenses has arrived at monthly income of Rs.6,934/-. The age of the deceased was fixed at 50 years, as found in the postmortem certificate. Applying multiplier of 13 corresponding to the age, compensation was fixed at Rs.10,81,704/-. The Tribunal has awarded a sum of Rs.25,000/- towards loss of consortium to the first petitioner, Rs.30,000/- towards loss of love and affection, Rs.5,000/- towards transport charges and Rs.25,000/- towards funeral expenses and totally awarded a sum of Rs.11,66,704/- as compensation.

4. The judgment of the Full Bench of the Hon'ble Supreme Court in the case of National Insurance Co.Ltd, Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC), wherein, it has been held that for non-salary person, future prospects shall be awarded at 25%. For loss of consortium a sum of Rs.40,000/- has to be awarded. No amount shall be awarded for loss of love and affection and instead, a sum of Rs.15,000/- is awarded towards loss of estate. A sum of Rs.5,000/- is awarded towards transport charges and a sum of Rs.15,000/- is awarded towards funeral expenses.

5. Accordingly, the compensation awarded by the Tribunal is reworked as under:-

S.No	Heads	Calculation
1.	Salary	Rs.8,000/- per month
2.	25% of (i) above to be added as future prospects	Rs.8,000 + Rs.2,000 = Rs.10,000/- per month
3.	1/3 rd of (ii) deducted as living and personal expenses of the deceased	Rs.10,000 - Rs.3,333 = Rs.6,667/-
4.	Compensation after multiplier of 13 is applied	Rs.6,667 x 12 x 13 = Rs.10,40,052/-
5.	Loss of consortium	Rs.40,000/-
6.	Loss of estate	Rs.15,000/-
7.	Transport Charges	Rs. 5,000/-
8.	Funeral Expenses	Rs.15,000/-
Total		Rs.11,15,052/-

6. The total compensation is reduced from a sum of Rs.11,66,704/- to a sum of Rs.11,15,052/- (Rupees Eleven lakh fifteen thousand and fifty two only) along with interest at the rate of 7.5% per annum. The appellant is directed to deposit the modified award amount of Rs.11,15,052/-, within a period of three months from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the same as apportioned by the Tribunal.

7. With the above modification of the award amount, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal, (The Chief Judge),
Chennai.

Copy to
The Section Officer
VR Section
HighCourt, Madras

+1 cc to M/s Special Govt Pleader (CS) Sr 6267
+1 cc to Mr.M.Swamikkannu Advocate sr 4720

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