

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.3317 of 2014

1.R.Sakila
2.Ramanathan

.. Appellants

Vs

1.M.Rajathi

2.ICICI Lombard General Insurance Co. Ltd.
Chottabai Centre, No.140
Nungambakkam High Road
Chennai - 600 034.

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 07.04.2014 made in M.C.O.P.No.1270 of 2012 on the file of the Motor Accident Claims Tribunal (IV Judge, Court of Small Causes), Chennai.

For Appellants : Ms.A.Salomi

For Respondents: Mrs.R.Sree Vidhya
R1-Exparte

JUDGMENT

[Judgment of the Court was made by N.KIRUBAKARAN, J]

The appeal has been preferred by the parents of the deceased R.Dinesh Kumar, aged about 21 years, a contact Specialist, allegedly earning about Rs.25,000/- per month, who died in the accident which occurred on 05.11.2010, when he was riding his motorcycle on Poonthamallee-Thiruvallur High Road and allegedly hit down by a unknown vehicle, which was subsequently found to be a tractor-trailer, belonging to the first respondent and insured with the second respondent-Insurance Company.

2. Heard Ms.A.Salomi, learned counsel for the appellants and Mrs.R.Sree Vidhya, learned counsel for the second respondent.

3. The only question to be decided is with regard to the quantum of compensation. As the Insurance Company has not filed any appeal, the question of going into negligence aspect does not arise.

4. The appellants proved through Ex.P15-appointment order and Ex.P16-Identity card of the deceased that he was working as Contact Specialist. P.W.1-Mrs.R.Sakila, who is the mother of the deceased, also spoke about the employment of the deceased and further fortified by the evidence of P.W.2, who is the representative of the employer. Regarding the educational qualification of the deceased, Ex.P.9, Ex.P10, Ex.P17, Ex.P18 and Ex.P20 had been marked. P.W.2, the representative of the employer categorically stated that the deceased was initially drawing a sum of Rs.7,300/- per month and subsequently, an increment of Rs.3,000/- was added. Therefore, the Tribunal rightly took a sum of Rs.10,000/- as monthly income, even though the claimants made a claim of Rs.25,000/-.

5. However, the Tribunal has not added any amount towards future prospectus. Therefore, 40% is being added towards future prospectus as per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC). If 40% is added, the monthly income would be Rs.14,000/- [Rs.10,000/- + 40% of Rs.10,000/-]. The Tribunal deducted 50% towards personal expenses of the deceased, as he was a bachelor. After deduction of 50% towards personal expenses, the loss of income would be at Rs.7,000/- [Rs.14,000 X 50/100].

6. The Tribunal erroneously took the age of the mother for determining the multiplier as '15', whereas the age of the deceased is 21 years, which would attract multiplier '18'. If '18' is taken as a multiplier, the loss of income would be as follows:

$$7,000 \times 12 \times 18 = 15,12,000/-$$

7. The Tribunal has awarded a sum of Rs.1 lakh towards loss of love and affection, which is reasonable, as the parents lost their son and therefore, the same is confirmed.

8. The Tribunal has awarded a sum of Rs.5,000/- towards transportation, which is negligible and therefore, the same is enhanced to Rs.10,000/-.

9. The Tribunal has awarded a sum of Rs.15,000/- towards funeral expenses, which is reasonable and therefore, the same is confirmed.

10. The Tribunal has not awarded any amount towards loss of estate. As per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), a sum of Rs.15,000/- is awarded under this head.

11. The Tribunal has not awarded any amount towards damages to the motorcycle. Therefore, a sum of Rs.10,000/- is awarded under this head.

12. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed. The details of the modified compensation as per the above discussion are as under:

Head	Amount (Rs.)
Loss of income	15,12,000
Loss of love and affection	1,00,000
Transportation	10,000
Funeral Expenses	15,000
Loss of Estate	15,000
Damages to Motorcycle	10,000
Total	16,62,000

13. Hence, the total compensation comes to Rs.16,62,000/- rounded off to Rs.16,60,000/-.

14. The second respondent/Insurance Company is directed to deposit the entire amount along with interest and costs within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the entire award amount to the respective bank accounts of the appellants/claimants equally, with interest and costs through RTGS within a period of one week thereon.

15. Accordingly, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation amount of Rs.10,20,000/- to Rs.16,60,000/-. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

The IV Judge, Court of Small Causes,
(MACT), Chennai.

Copy To

The Section Officer,
VR Section, High Court,
Chennai-104. (2 Copies)

+lcc to Mr.V.Venkatesan, Advocate, S.R.No.45093

C.M.A.No.3317 of 2014

VGI (CO)
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