



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	13.07.2018
Date of Judgment	01.08.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.36 of 2018

1.Lakshmi
2.Dharmaraj
3.Subburaj
4.Selvi Veeralakshmi

: Appellants/Claimants

Vs.

1.M/s.Eagle Fleet Services through its
Managing Partner,
No.B1, Patteeswara Enclave,
Viswesarya 2nd St, Church Road,
Sai Baba Colony, Coimbatore.

2.IFFCO-TOKIO General Insurance Company Limited,
through its Branch Manager,
Office at Iffco Tower,
Plot No.3, Sector 29,
Gurgoan, Haryana.

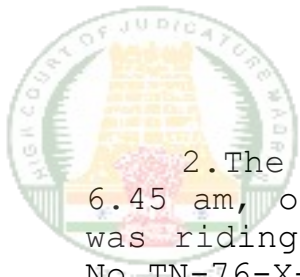
: Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (II Additional District and Sessions Judge), Tirunelveli, made in MCOP No.1192 of 2013, dated 20.08.2015.

For Appellant : Mr.R.Krishnan
For 1st Respondent : Ex.parte before Tribunal
For 2nd Respondent : Mr.G.Maruthiah

JUDGMENT**(Judgment of the court was delivered by T.KRISHNAVALLI,J)**

This appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal (II Additional District and Sessions Judge), Tirunelveli, dated 20.08.2015 made in MCOP No.1192 of 2013.



2.The brief facts of the case is that on 19.06.2013 at about 6.45 am, on Tenkasi-Sivagiri main road, one Ramraj (Head constable) was riding his Hero Honda Passion Motor Cycle bearing registration No.TN-76-X-9995, while the deceased Muniasamy was travelling as a pillion rider. When they were proceeding near Thottichimalai River Bridge, at that time, a Toyota Car bearing registration No.TN-38-BR-1647 came from just behind of the motor cycle without sounding horn in a rash and negligent manner and hit against the rear portion of the motor cycle, resulting which both the deceased and rider of the motor cycle thrown out of the motor cycle and sustained injuries and immediately, they were taken to the Government Hospital Sivagiri, where the deceased Muniasamy reported as dead. The legal heirs of the deceased Muniasamy filed claim petition seeking compensation of Rs.50,00,000/- on the ground that the offending vehicle caused the accident.

3.Before the tribunal, on the side of the claimants, 2 witnesses were examined and marked 5 documents. On the side of the Insurance Company, one witness was examined and three documents were marked.

4.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.13,85,792/- together with interest @ 9% p.a.

5.The learned counsel for the appellants submitted that the tribunal has erred in adopting split multiplier and that as per the Judgment of the Hon'ble Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009(2) TNMAC 1 (SC), the proper multiplier to be applied in this case is 9. It is further submitted that in the absence of any specific reason and evidence on record, the tribunal should not apply split multiplier in routine course and should apply multiplier as per the decision in the case of Sarla Verma.

6.Per contra, the learned counsel for the 2nd respondent submitted that as the age of the deceased is 56, for determining the loss of income split multiplier method has to be adopted and hence, the award of the tribunal is based on the evidence and it is also reasonable and hence, it has to be confirmed.

7.Heard both sides and perused the materials available on record.

8.It is settled law that for determination of compensation in motor accident claims under Section 166, the tribunal or the court should not apply split multiplier in routine course and should apply multiplier as per decision in the case of Sarla Verma. As there were inconsistencies in selection of multiplier, the Hon'ble Apex Court in Sarla Verma's case prepared a table for selection of



multiplier based on age group of the deceased/victim and hence, the Motor Vehicles Act, 1988 does not envisage application of split multiplier.

9. In view of the settled position of law, this court is of the opinion that the contention taken by the appellants is acceptable and the compensation has to be re-structured by adopting the multiplier of 9 throughout and not by adopting split multiplier of 2 and 7 respectively.

10. On coming to the facts of the case, it is not in dispute that the deceased was working as Special Sub Inspector of Police and his monthly salary was Rs.33,786/- (after deducting income tax), which is evident from RW1 and Ex.R1. It is not in dispute that the deceased died at the age of 56 years. As per the decision of the Constitution Bench in National Insurance Company Limited Vs. Pranay Sethi and others (2017(13) SCALE 12, 15% has to be added towards future prospects. By doing so, the income of the deceased is calculated as Rs.38,854/-. After deducting 1/4th towards his personal and living expenses, the income of the deceased is calculated as Rs.29,140/- (Rs.38,854/- - Rs.9,714/-). By applying proper multiplier 9, this Court awards Rs.31,47,120/- towards loss of dependency.

11. As per the decision of the Hon'ble Supreme court in the case of Pranay Sethi, the first claimant, being the wife of the deceased is entitled to Rs.40,000/- towards loss of consortium; Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. In total, the claimants would be entitled to Rs.32,17,120/- along with interest @ 7.5% p.a.

12. In the result, the Civil Miscellaneous Appeal is allowed, by enhancing the compensation from Rs.13,85,792/- to Rs.32,17,120/- and this amount of compensation shall be deposited less the amount already deposited along with interest @ 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. The claimants are entitled to the share, as per the ratio of apportionment made by the Claims Tribunal. On such deposit being made by the Insurance Company, the claimants are entitled to withdraw their respective share as per the apportionment of the tribunal without filing any formal petition before the tribunal. No costs.

Sd/-

Assistant Registrar(CO)

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To,

1.The II Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

2.The Record Keeper,VR Section,
Madurai Bench of Madras High Court,
Madurai(**2 copies**)

+1CC to Mr.R.Krishnan, Advocate, SR.No.76913
+1CC to Mr.G.Maruthiah, Advocate, SR.No. 77075

C.M.A(MD)No.36 of 2018
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