

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.09.2019
CORAM:
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
CMA.No.1132 of 2006

1.K.V.Raman
2.K.V.Haridarsini

...Appellants/Petitioners

.Vs.

1.M.Palaniammal
2.United Indian Insurance Co. Ltd.,
31-A, Salem main road,
Padusampalli,
Raman Nagar Post,
Mettur Dam,
Salem District.

... Respondents/Respondents

(R1-Given up)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 12.04.2005 passed in MCOP.No.1323 of 2002 on the file of the Motor Accident Claims Tribunal / I Additional District Court, Erode.

For Appellants : Mr.N.Manokaran
For Respondents : R1-Given up
Mr.C.Paranthaman for R2

JUDGMENT

The appellants are the claimants in MCOP.No.1323 of 2002 on the file of the Motor Accident Claims Tribunal / I Additional District Court, Erode. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.40,00,000/- for the death of their son Vinod in a road accident that took place on 01.03.2002.

2. The case of the claimants is that on 01.03.2002, when their deceased son Vinod was driving his Maruthi Car bearing Registration No. KA 03 MA 3820 on Coimbatore - Perunthurai National Highways 47 at a moderate speed, a lorry bearing Registration No. KA 01 D 7373 belonging to the first respondent

and insured with the second respondent hit the Maruthi Car near Sakthi Foundary, Pallagounden Palayam, as a result of which, Vinod died on the spot.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the lorry bearing Registration No. KA 01 D 7373 belonging to the first respondent and that since the said lorry was insured with the second respondent, both of them are jointly and severally liable to pay a sum of Rs.40,00,000/- to them. Their further contention is that their son was working as a Computer Assistant Manager in Schoolnet Company, Bangalore drawing a salary of Rs.32,750/- per month.

4. The first respondent, owner of the lorry remained absent before the Tribunal and therefore, she was set ex-parte. The second respondent, United India Insurance Company Limited contested the claim petition. The learned Motor Accidents Claims Tribunal / I Additional District Judge, Erode after analysing the evidence on record, awarded a compensation of Rs.12,66,680/- together with interest at the rate of 9% per annum. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.N.Manokaran, learned counsel appearing for the appellants / claimants would contend that the Tribunal had awarded very meagre amounts towards loss of income and funeral expenses and that since the income of the deceased on the date of the accident was Rs.23,420/- per month, a sum of Rs.11,710/- should have been taken into account for calculating loss of income, after deducting 50% of the same as the deceased died as a bachelor. He would also contend that no amount was added towards future prospects. He would therefore contend that the award amount passed by the Tribunal should be enhanced.

6. Per contra, Mr.C.Paranthaman, learned counsel appearing for the second respondent / United India Insurance Company Limited contended that there is no basis for upsetting the award made long back in the context of trends and principles in vogue there and that in the instant case, the Tribunal has taken into consideration the legal principles which were prevailing at that point of time and awarded a sum of Rs.12,66,680/- to the claimants and therefore the same need not be disturbed by this Court at this stage.

7. A perusal of the records shows that the claimants have filed salary certificates and income tax returns showing the

monthly income of the deceased as Rs.23,420/- per month. Since the deceased died as a bachelor, 50% of the same got to be deducted from his monthly income and therefore, the monthly income after 50% deduction is fixed at Rs.11,710/- for calculating loss of income. Since the age of the deceased was 27 years on the date of the accident, the proper multiplier to be adopted in the instant case is 17 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Since the deceased was employed and was earning a fixed salary, 40% should be added towards future prospects of the deceased as per the decision laid down in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC).

Calculation

Total Income = Rs.23,420/-
After 50% deduction = Rs.11,710/-
40% Future Prospects = Rs.9,368/-
Total = Rs.11,710/- + Rs.9,368/- = Rs.21,078/-

Loss of Income

= Rs. 21,078/- x 17 x 12
= Rs.42,99,912/-

8. Apart from the above said amount, the appellants / claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards loss of estate, loss of love and affection and funeral expenses respectively. The award passed under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.42,99,912/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.43,69,912/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.12,66,680/- to Rs.43,69,912/-.

10. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.12,66,680/- to Rs.43,69,912/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The second respondent, United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.43,69,912/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1323 of 2002 on the file of the Motor Accident Claims Tribunal / I Additional District Court, Erode within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the apportionment granted before the Tribunal after following due process of law.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The District Judge,
The I Additional District Court, /MACT
Erode.

Copy to

The Section Officer
VR Section High Court, Madras

+1 cc to Mr.N.Manokaran Advocate sr76349

+1 cc to Mr.C.Paranthaman Advocate sr76591

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