

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.412 of 2009

1. Susila

2. Minor Bharathi

3. Minor Bhavatharini ... Appellants/Petitioners

Minors 2 & 3 are rep by their mother
and natural guardian 1st respondent

Versus

1.V. Kandasamy

2.The Oriental Insurance Company Ltd.,
Duaraka II Floor,
No.79, Uthamar Gandhi Salai,
Chennai -34. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of
Motor Vehicle Act, 1988 against the order and Decreetal Order in
M.C.O.P.No. 145 of 2006 dated 29.02.2008 on the file of Motor
Accident Claims Tribunal/ District Judge, Perambalur.

For Appellants : Mr.S. Kamadevan

For Respondents : Notice not ready(for R1)
: Mr. S. Arun Kumar (for R2)

JUDGMENT

This Civil Miscellaneous Appeal has been filed against order
and Decreetal Order dated 29.02.2008 made in M.C.O.P.No. 145 of
2006 on the file of Motor Accident Claims Tribunal/District
Judge, Perambalur.

2.The brief facts, which are necessary to decide the appeal,
are as follows:-

On 01.01.2006 at about 18.00 hours, when the deceased
namely, Ravi @ Ravichandran was riding in the Motor Cycle viz.,
Suzuki bearing Registration No.TN 46 B 6510 on the Thuraiyur to
Perambalur Road, a Lorry bearing Registration No. TN-45-W-2343

came on his behind, in a rash and negligent manner and dashed against the deceased and as a result of which, he sustained multiple and grievous injuries. Immediately after the accident, the deceased was taken to Government Hospital Perambalur, but unfortunately he died in the hospital.

3. For the death of the said Ravi @ Ravichandran, his wife/1st claimant and his two minor daughters/claimants 2 and 3 have filed a claim petition in M.C.O.P.No.145 of 2006 before the Motor Accidents Claims Tribunal claiming a sum of Rs.10,00,000/- as compensation.

4.The Tribunal computed the compensation payable to the claimants under various heads and awarded a sum of Rs.4,89,600/- as compensation. Being not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have preferred the present appeal before this Court.

5.Before the Tribunal, the first claimant/wife of the deceased examined herself as PW.1, besides examining one Thirunavukkarasu as PW.2 and marked six documents as Ex's.P1 to P6. On the side of the respondents before the Tribunal, no oral evidence was adduced and no documentary evidence was marked.

6. Learned counsel appearing for the appellants/claimants would contend that the Tribunal, without taking into consideration the age, nature of the job and the income of the deceased at the time of the accident, is erred in awarding only a sum of Rs.4,89,600/- to the claimants. It is further contended that the Tribunal is erred in awarding very meager amount towards funeral expenses, loss of estate, and consortium without taking into consideration the age of the widow and her minor daughters and hence, he prays for allowing of this appeal by enhancing the compensation.

7. Learned counsel appearing for the second respondent/Insurance Company would justify the award passed by the Tribunal as the one which is proportionate and prayed for dismissal of this appeal.

8. On perusing the materials and evidence adduced before the Tribunal, it is seen that the claimants have produced a copy of F.I.R-Ex.P.1, copy of post-mortem examination certificate under Ex.P2, Family Card-Ex.P.3, Original Passport-Ex.P4, Copy of Air Ticket-Ex.P.5 and Statement of Account-Ex.P.6.

9. On a perusal of the document Ex.P.2, it is seen that the deceased was aged about 40 years at the time of the accident. Based on the oral evidence adduced by P.W.1, the Tribunal assessed that the deceased would be earning a sum of Rs.4,000/- per month and after 1/3rd deduction and applying multiplier 12,

the Tribunal has arrived at a sum of Rs.4,80,060/- under the head loss of income and the said amount requires interference by this Court and 40% is to be added for future prospectus enhanced and hence, the monthly income comes to Rs.5,600/- [Rs.4000/- + Rs.1600/- (40% of Rs.4000)] and after deducting 1/3 towards personal expenses of the deceased, the loss of dependency is calculated as follows:

Earning Per month	: 5,600
1/3 rd deduction	: 1,866
Balance	: 3,734

Now, multiplier of 15 is adopted and the loss of dependency comes to Rs.3,734 x 12 x 15 = Rs.6,72,120/-. Under the head of funeral expenses, the Tribunal has awarded a sum of Rs.2,000/- and the same is enhanced to Rs.15,000/-. Further, the Tribunal has awarded a sum of Rs.2,500/- towards loss of estate and the same is enhanced to Rs.15,000/-. Under the head of loss of consortium, the Tribunal has awarded a sum of Rs.5,000/- and the said amount is enhanced to Rs.40,000/-.

10. Accordingly, the compensation amount awarded by the Tribunal is enhanced from Rs.4,89,560/- to Rs.7,42,120/- as follows:-

Description	Amount awarded by Tribunal	Amount awarded by this Court
Loss of Income	Rs.4,80,060	Rs.6,72,120/-
Funeral Expenses	Rs.2000/-	Rs. 15,000/-
Loss of Estate	Rs.2,500/-	Rs. 15,000/-
Loss of Consortium	Rs.5,000	Rs. 40,000/-
Total	Rs.4,89,560 rounded off to Rs.4,89,600	Rs.7,42,120/-

11. In the result,

[i] this Civil Miscellaneous Appeal is partly allowed.

[ii] the compensation amount of Rs.4,89,600/- awarded by the Tribunal is hereby enhanced to Rs.7,42,120 /-, with interest at the rate of 7.5% per annum, from the date of petition till the date of realisation.

[iii] The second respondent/Insurance company is directed to deposit the enhanced award amount, less the amount already deposited if any, along with interest at the rate of 7.5%, within a period of eight weeks from the date of receipt of a copy of this Judgement.

[iv] On such deposit, the first appellant/first claimant

is permitted to withdraw her share amount as apportioned by the Tribunal, by way of filing proper application before the Tribunal.

[v] The share amount of the minors daughters/claimants 2 and 3 as apportioned by the Tribunal, is directed to be deposited in any one of the Nationalised Bank till they attain majority, however, the mother of the minor claimants viz., the first claimant is permitted to withdraw the accrued interest once in three months.

[vi] The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation.

[vii] No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

smn

To

1. The District Judge,
Motor Vehicles Accident Claims Tribunal,
Perambalur.
2. The Section Officer,
V.R. Section, High Court,
Madras - 104.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No. 28492

CMA No.412 of 2009

SKV(CO)
GN(18/11/2019)

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