

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2491 of 2011
and
M.P.No.1 of 2011

1.Ranjitham
2.Ramesh
3.Minor Sivakumar
(Rep.by his mother 1st petitioner
as Natural Guardian & Natural father)

.. Appellants/Petitioners

Vs.

1.Shyamala
2.The New India Assurance Company Limited,
No.45, Moore street, Chennai-1

.. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and Decree dated 22.04.2018 made in M.C.O.P.No.1843 of 2005 on the file of the Motor Accidents Claims Tribunal (VI Judge,SCC), Chennai.

For Appellant : Mr.V.Velu

For R2 सत्यमेव जयते :Mr.S.Manohar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order and Decree dated 22.04.2018 made in M.C.O.P.No.1843 of 2005 on the file of the Motor Accidents Claims Tribunal (VI Judge,SCC), Chennai.

2. The case of the appellants/claimants is that on 16.12.2004 at 2.45 p.m., the deceased Devaraj aged about 35 years, was pushing his two wheeler bearing Registration No.TN 21 U 7880 from South to North. At that time, a Tata Indica Car bearing registration No.TN 09 AH 7797 coming from Pondicherry

and going towards Chennai (from South to North) in a rash and negligent manner, hit the deceased. The deceased sustained injuries and was taken to Government Medical College Hospital, Chengalpattu and was admitted at about 4 p.m and he died at about 4.15 p.m., on the same day. The accident resulted in the death of the deceased namely V.Devaraj who is the husband and father of the first and 2nd and 3rd appellants/petitioners respectively. At the time of the accident, the deceased was earning Rs.7,500/- per month as Senior Mason and Agriculturist. The accident was due to rash and negligent driving of the 1st respondent's driver and hence, the 1st respondent as owner and the 2nd respondent as insurer are liable to pay compensation.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.3,80,000/- with interest at 7.5% per annum.

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

5. Based upon the oral and documentary evidence, the Tribunal has come to the conclusion that the driver of the offending TATA Indica Car drove the vehicle in a rash and negligent manner and caused the accident and accordingly, fixed the liability on the owner of the vehicle along with the Insurance Company and said finding is hereby confirmed.

6. Based upon the evidence of P.W.1 and taking note of the date of the accident, has fixed Rs.4,500/- p.m. as salary and since the age of the deceased was '42', 25% future prospectus is added and 1/3rd deduction is ordered for personal expenses and the multiplier 14 is adopted as per the decision in Hon'ble Supreme Court reported in 2009 (2) TN MAC 1 SC [Sarala Verma and Others Vs. Delhi Transport Corporation and another]. Accordingly, pecuniary loss suffered by the legal representatives is calculated at Rs.4500/-+25%*12*14-1/3=Rs.6,30,000/-.

The second appellant and third appellant who is minor at the time of the accident, are entitled to Rs.20,000/- each towards loss of love and affection and the learned counsel for the appellant submitted that the first appellant being a widow is entitled to Rs.40,000/- towards loss of consortium and for funeral expenses, the same is enhanced to Rs.15,000/-. The loss of estate, Rs.15,000/- is hereby awarded.

7. Hence, total compensation is hereby enhanced to Rs.7,40,000/- from Rs.3,80,000/- as awarded by the Motor Accidents Tribunal. The amount awarded is hereby tabulated:

Head	Trial Court	High Court
Lossof dependency	Rs.3,60,000/-	Rs.6,30,000/-
Funeral expenses	Rs. 5,000/-	Rs. 15,000/-
Loveand Affection (toeach children)	Rs. 15,000/-	Rs. 40,000/-
Lossof consortium	----	Rs. 40,000/-
Loss of Estate	---	Rs. 15,000/-
Total	Rs. 3,80,000/-	Rs. 7,40,000/-

8. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited and the Insurance Company shall deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this judgment. Interest at the rate of 7.5% with regard to the enhancement of amounts shall accordingly be calculated for payment. As far as the share of minor appellant No.3 is concerned, the same shall be deposited in any interest bearing Fixed Deposit scheme in any nationalised Bank and the same shall be renewed periodically till he attains majority and the interest thereon shall be withdrawn by the mother, the first appellant herein till the third appellant attains majority.

9. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is allowed. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal (VI Judge, SCC),
Chennai.

+1cc to Ms.M.Malar, Advocate sr.17739

+1cc to Mr.S.Manohar, Advocate sr.17729

C.M.A.No.2491 of 2011 and
M.P.No.1 of 2011

gj (co)

nr 15/05/2019