

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.11.2019
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.1839 of 2013

1.S.Mahaboob Bee
2.S.Syed Khaja

... Appellants/ Petitioners
vs.

1.Sriramulu

2.ICICI Lombard General Insurance Co. Ltd.,
No.140, 3rd Floor,
Nungambakkam High Road,
Chennai - 600 034.Respondents/
Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 15.09.2012 in M.C.O.P.No.4097 of 2009 on the file of the Motor Accident Claims Tribunal / XV Additional Court, Chennai.

Appellants : Mr.A.Shanmugaraj
R1 : Ex parte
R2 : Mrs.R.Sreevidhya

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.4097 of 2009 on the file of the Motor Accident Claims Tribunal / XV Additional Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death of their son Syed Imran @ Imran in a road accident on 19.09.2008

2. The case of the claimants in nutshell is as follows:

On 19.09.2008, the deceased was riding his motorcycle bearing Registration No.TN 22 AA 2911 along G.S.T.Road, Silavattam and at about 02.00 p.m, a speeding lorry bearing Registration No.TN 21 P 8959, hit the motorcycle, as a result whereof, the deceased Syed Imran fell down and sustained fatal injuries and died in the hospital on the same date.

3. According to the claimants, the rash and negligent driving of the driver of the lorry belonging to the first respondent was the cause of the accident and that since the said lorry was insured with the second respondent / ICICI Lombard General Insurance Company Limited, the owner and the insurer of the lorry are jointly and severally liable to pay compensation.

4. The owner of the lorry remained absent before the Tribunal and therefore, he was set ex-parte. The ICICI Lombard General Insurance Company Limited contested the claim petition on all the grounds available to the insured. The learned XV Additional Judge / Motor Accident Claims Tribunal, Chennai after analysing the evidence on record, awarded a compensation of Rs.6,00,000/- together with interest at the rate of 7.5% per annum to the claimants. Not being 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. Heard Mr.A.Shanmugaraj, learned counsel appearing for the appellants and Mrs.R.Sreevidhya, learned counsel appearing for the second respondent. No appearance on behalf of the first respondent.

6. In the claim petition, it is contended that the deceased was working as a Manager for N.S.National Supplies Company, Sothupakkam, earning a sum of Rs.10,500/- per month. In the absence of income proof, the Tribunal fixed the notional income of the deceased as Rs.6,000/- per month. It is pertinent to point out that the accident took place in the year 2008 and in the facts and circumstances, this Court is of the opinion that fixing a sum of Rs.7,500/- as notional monthly income of the deceased would meet the ends of justice. The Tribunal did not award any amount towards "future prospects" of the deceased, especially, when the deceased was aged 20 years on the date of the accident. As per the decision of the Supreme Court of India in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 40% should be added towards future prospects of the deceased. Since the deceased died as a bachelor, 50% should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 18 as per the decision rendered in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

Notional Income = Rs.7,500/-
40% Future Prospects = Rs.3,000/-
Total = Rs.7,500/- + Rs.3,000/- = Rs.10,500/-
After 1/2 deduction = Rs.5,250/-

Loss of dependency

= Rs.5,250/- x 12 x 18
= Rs.11,34,000/-

7. 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, as per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under various heads is extracted

hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.11,34,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.12,04,000/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.6,00,000/- to Rs.12,04,000/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.6,00,000/- to Rs.12,04,000/-.

(iii) The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The second respondent / ICICI Lombard General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.12,04,000/- (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 M.C.O.P.No.4097 of 2009 on the file of the Motor Accident Claims Tribunal / XV Additional Court, Chennai 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 orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal,
XV Additional Court, Chennai.

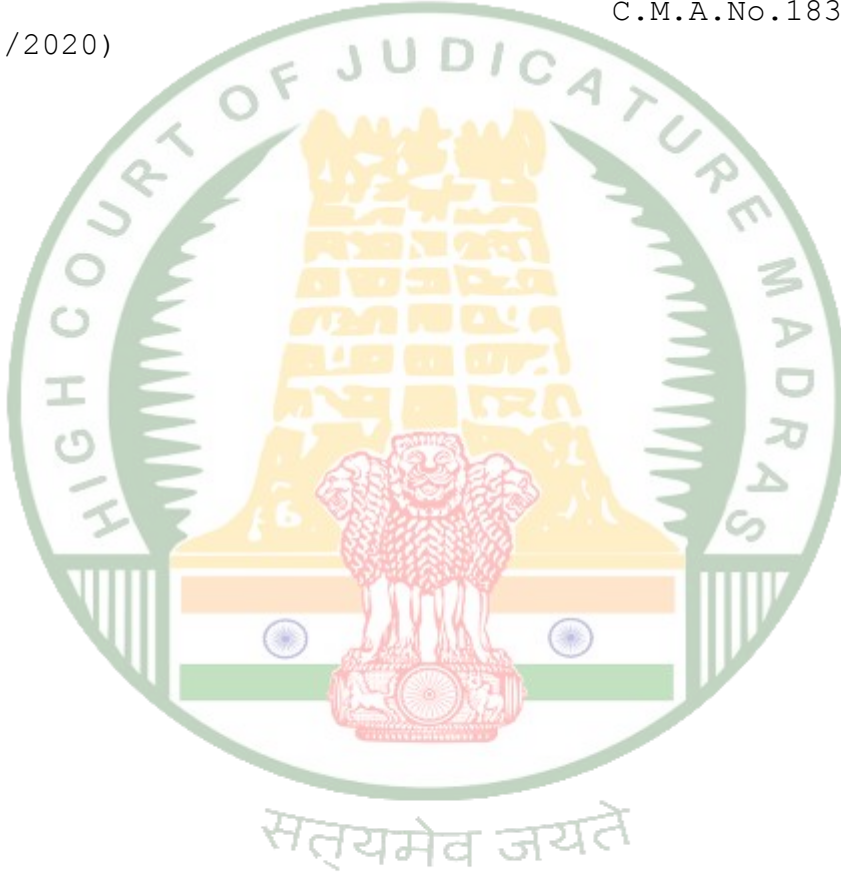
Copy to:
The Section Officer, VR Section, High Court, Madras.

+lcc to Mr.A.Shanmugaraj , Advocate SR.No. 96372

+lcc to Mrs.R.Sreevidhya , Advocate SR.No. 96657

C.M.A.No.1839 of 2013

A.SK(24/02/2020)



WEB COPY