

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2917 of 2011

and

M.P.No.1 of 2009

1.R.Chandrasekaran
2.C.Vaijayanthi (Minor)
3.C.Mirunalini (Minor)
(Minors represented by next friend &
Guardian, the first appellant) ..Appellants

..Vs..

1.Vijay Agencies,
No.34, 1st main road, New colony,
Chrompet, Chennai - 44.

2.National Insurance Co. Ltd.,
Motor Third Party Claims Office,
Chennai-600 002.

..Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 07.07.2009 in M.C.O.P.No.2563 of 2006 on the file of the Motor Accidents Claims Tribunal [Chief Judge, Court of Small Causes], Chennai.

For Appellants : Ms.M.Sudha

For Respondents : Mr.J.Chandran for R2

No appearance for R1

JUDGMENT

The appellants are the claimants in M.C.O.P.No.2563 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T. Rules seeking compensation of Rs.17,50,000/- for the death of one Seetha Chandrasekaran wife of the first claimant and mother of the second and third claimants in a road accident that took place on 17.06.2006.

2. According to the appellants/claimants, on 17.06.2006, when the deceased Seetha Chandrasekaran was riding her two wheeler TVS 50 bearing Registration No. TN 22 L 2461 along R.P.Road, Asthinapuram, Chrompet, Chennai a speeding Mahendra van bearing Registration No. TN 22 H 8527 belonging to the first respondent hit the two wheeler, as a result of which, the deceased Seetha Chandrasekaran sustained multiple injuries all over her body and that though she was immediately rushed to Parvathi Hospital at Chrompet, she succumbed to injuries. It is further contended by them that the rash and negligent driving of the driver of the Mahendra van bearing Registration No. TN 22 H 8527 belonging to the first respondent was the cause of the accident and that since the said van was insured with the second respondent, the National Insurance Company Limited, both of them are jointly and severally liable to pay compensation to them.

3. The owner of the Mahendra van bearing Registration No. TN 22 H 8527 remained absent before the tribunal and therefore, he was set ex-parte. The second respondent, the National Insurance Company Limited contested the claim petition. The learned Chief Judge, Court of Small Causes, Chennai after analysing the evidence on record awarded a compensation of Rs.11,80,000/- together with interest at the rate of 7.5% per annum to the claimants.

4. Not satisfied with the quantum of compensation awarded by the tribunal, the appellants/claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Ms.M.Sudha, learned counsel appearing for the appellants would contend that the deceased was working as "upper division clerk" in UDC Officers Training Academy, Chennai earning a sum of Rs.10,177/- per month as evidenced by the salary certificate (Ex.P6). She would further contend that as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instant case is 15, since, the deceased was aged 40 years on the date of the accident and that the tribunal has wrongly adopted multiplier of 13.

6. Per contra, Mr.J.Chandran, learned counsel appearing for the second respondent would contend that the tribunal after considering various aspects, awarded a just compensation and the same need not be disturbed at this juncture.

7.A perusal of the orders passed by the tribunal shows that the tribunal fixed the monthly income of the deceased as Rs.10,177/- and added 50% towards future prospects. As per the decision laid down in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, only 30% can be added towards future prospects, since the age of the deceased was 40 years on the date of the accident. As rightly pointed out by the learned counsel appearing for the appellants, the proper multiplier to be adopted in the instant case is 15 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation:

Income = Rs.10,177/-

30% Future Prospects = Rs.3,053/-

Total = Rs.10,177/- + Rs.3,053/- = Rs.13,230/-

Loss of Dependency:

= Rs.13,230/- x 15 x 12 x 1/3 deduction

= Rs.15,87,600/-

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

S.No.	Head	Amount granted
1.	Loss of Dependency	Rs.15,87,600/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.16,57,600/-

Thus, the appellants/claimants are entitled to a sum of Rs.16,57,600/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

8.In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently the connected Miscellaneous Petition is closed.

(ii) The quantum of compensation awarded by the tribunal is enhanced from Rs.11,80,000/- to Rs.16,57,600/- which shall carry interest at the rate of 7.5% per annum.

(iii) The second respondent, National Insurance Company is directed to deposit the entire compensation of Rs.16,57,600/- 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.2563 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai within four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the second respondent, the appellants/claimants are at liberty to withdraw the same as apportioned by the tribunal after following due process of law.

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

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
The Chief Judge,
Court of Small Causes,
Chennai.

+1cc to Mr.J.Chandran, Advocate SR.No. 7487

+1cc to Mr.M.Sudha , Advocate SR.No. 10894

C.M.A.No.2917 of 2011
and

M.P.No.1 of 2009

GMV (20/06/2019)

सत्यमेव जयते

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