

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.10.2019
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.3641 of 2013

1.M.Ramalingam

2.M.Kelanjimani

... Appellants/Claimants

..Vs..

The Managing Director,
The Tamilnadu Government Transport,
(Villupuram Division).

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 17.08.2006 in M.C.O.P.No.1285 of 2000 on the file of the Motor Accident Claims Tribunal / Principal District Court, Cuddalore.

For Appellants : Mr.N.Damodaran
For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The appellants are the claimants in M.C.O.P.No.1285 of 2000 on the file of the Motor Accident Claims Tribunal / Principal District Court, Cuddalore. 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 father Miniyan in a road accident on 25.06.2000.

2. The case of the claimants are as follows:

On 25.06.2000, the deceased Miniyan was travelling in a bus bearing Registration No. TN 32 N 0091 belonging to the respondent from Panruti to Koliyanoor and at about 12.30 p.m, the driver of the bus drove the bus rashly and negligently and hit another bus belonging to the Tamilnadu State Transport Corporation bearing Registration No. TN 32 N 0623, as a result of which, the deceased Miniyan sustained grievous injuries. Though he was immediately rushed to Government Hospital at Panruti, he succumbed to injuries on 15.07.2000.

3. According to the claimants, the accident took place due to the rash and negligent driving of the drivers of the bus belonging to the Tamilnadu State Transport Corporation Limited and therefore, they are liable to pay compensation.

4. The learned Motor Accident Claims Tribunal / Principal District Judge, Cuddalore after analysing the evidence on record, awarded a compensation of Rs.50,000/- to the claimants together with interest at the rate of 7.5% per annum from the date of the claim petition. 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.Damodaran, learned counsel appearing for the appellants/ claimants contended that though the deceased was aged 50 years on the date of accident and his sons were depending on his income, the Tribunal awarded a meagre amount of Rs.50,000/- and therefore sought for enhancement of compensation.

6. Mr.K.J.Sivakumar, learned counsel appearing for the respondent / Tamilnadu State Transport Corporation Limited contended that both the claimants were majors and were not depending on the income of the deceased and that the Tribunal has taken into consideration the legal principles which were prevailing at that point of time and awarded a sum of Rs.50,000/- to the claimants and therefore the same need not be disturbed by this Court at this stage.

7. Section 166 (1) (c) of the Motor Vehicles Act, 1988 lays down that any legal representative of a deceased victim could file an application before the Tribunal. In the instant case the claimants are the sons of the deceased and it is not also the case of the respondent that the claimants were residing separately. The deceased, an agriculturist would have definitely contributed some amount for his family and therefore the claimants are entitled to compensation.

8. The contention of the claimants is that the deceased was an agriculturist earning a sum of Rs.10,000/- per month. Since the accident took place in the year 2000, the notional income of the deceased is fixed as Rs.4,500/- per month in the absence of proof of evidence to show the actual income of the deceased. 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 (SC), 25% should be added towards future prospects of

the deceased. Since the age of the deceased was 50 years on the date of accident. As there are two dependents, $1/3^{\text{rd}}$ is deducted towards personal expenses of the deceased and the proper multiplier to be adopted in the instant case is 14 as per the decision rendered in Sarla Verma and Others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation :

Total Income = Rs.4,500/-
25% Future Prospects = Rs.1,125/-
Total = Rs.4,500/- + Rs.1,125/- = Rs.5,625/-
After $1/3^{\text{rd}}$ deduction = Rs.3,750/-

Loss of Dependency

= Rs. 3,750/- x 12 x 14
= Rs.6,30,000/-

9. 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.6,30,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of consortium	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
1	Tota	Rs.7,00,000/-

10. Thus, the compensation awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.7,00,000/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.50,000/- to Rs.7,00,000/-.

(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 receipt of

the Court fee.

(iv) The respondent / Tamilnadu State Transport Corporation Limited is directed to deposit the enhanced compensation amount i.e., Rs.7,00,000/- (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.1285 of 2000 on the file of the Motor Accident Claims Tribunal / Principal District Court, Cuddalore 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

//True Copy//

Sub Assistant Registrar

To

The Principal District Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

+1cc to Mr.K.J.Sivakumar, Advocate sr.086952

C.M.A.No.3641 of 2013

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