

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.3780 of 2013

1. Lakshmi
2. Jagadeesan(minor)
3. Thulasiram(minor)
4. S. Kanthamma

....Appellants/Claimants

.Vs.

- 1.Manickam
- 2.The National Insurance Co. Ltd.,
No.751, Anna Salai, Chennai - 600 006.

.... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 01.12.2006 made in MACT.O.P.No.1 of 2006 on the file of the II Judge, Small Causes Court(Motor Accidents Claims Tribunal), Chennai.

For Appellant : M/s. A. Subadra
for Mrs.M.Malar for A.Subadra

For Respondent-2 : Mr.R. Ravichandran

JUDGMENT

The appellants are the claimants in MCOP.No.1 of 2006 on the file of the Motor Accident Claims Tribunal/II Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award a compensation of Rs.9,00,000/- for the death of one Dilli Babu, the husband of the first claimant, and father of the claimants 2 and 3 and son of the 4th claimant in a road accident on 06.06.2005.

2.The case of the claimants is that on 06.06.2005, the deceased Dilli Babu was riding his bicycle along Kundrathur main road, Monlivakkam and that at about 7.30 a.m, a speeding lorry bearing Registration No.TN-22-AD-2829 belonging to the 1st respondent and insured with the second respondent, hit him, as a

result of which, he sustained grievous injuries and died on the spot.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the lorry bearing Registration No. TN-22-AD-2829 belonging to the 1st respondent and that the said lorry was insured with the second respondent/ the National Insurance Company, the owner and the insurer are liable to pay compensation. The Tribunal after analyzing the evidence on record awarded a sum of Rs.4,61,000/- with 7.5% p.a as compensation 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, seeking enhancement of compensation.

4. Mrs. A. Subadra learned counsel appearing for the appellants / claimants would contend that the Tribunal has awarded only a sum of Rs.4,61,000/- as compensation, and that no amount was awarded towards future prospects of the deceased.

5. Per contra the learned counsel for the 2nd respondent would contend that the Tribunal after considering all the aspects of this case, has awarded just compensation and the same need not be disturbed at this stage.

6. No appearance on behalf of the first respondent.

7. In the instant case as rightly pointed out by the learned counsel for the claimants, the Tribunal did not award any amount towards "future prospects" of the deceased. The age of the deceased was 34 years on the date of the accident, hence the proper multiplier to be adopted in the instant case is 16 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Since no proof showing the income of the claimant is filed, the notional income is fixed at Rs.6,000/-, considering the year of the accident.

8. As per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 40% has to be added towards future prospects, as the deceased was aged about 34 years and 1/4th is deducted towards personal expenses of the deceased as there were 4 persons depending on his income.

Calculation:

Notional Income	= Rs.6,000/-
40% Future Prospects	= Rs.2,400/-
1/4 th deducted towards personal expenses (Rs.8,400-Rs.2,100)	= Rs.6,300/-

Total = Rs.6,300x12x16

= Rs.12,09,600/-

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 under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.12,09,600/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.12,79,600/-

10. Thus, the compensation awarded by the Tribunal is enhanced to Rs.12,79,600/- from Rs.4,61,000/-

11. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced to Rs.12,79,600/- from Rs.4,61,000/-

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, within a period of 3 weeks from the date of this order and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The second respondent, National Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.12,79,600/- (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 MCOP.No.1 of 2006 on the file of the Motor Accident Claims Tribunal/II Judge, Small Causes 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 1st and 4th appellants are at liberty to withdraw the same as per the apportionment granted before the Tribunal after following due process of law.

(vi)The share of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalized Bank till they attain majority. The 1st appellant being the mother of the appellants 2 and 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

smn

To

1.The Motor Accidents Claims Tribunal, Chennai.
II Judge, Small Causes Court.

2.The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.R. Ravichandran, Advocate sr 89914.

+1 CC to M/s.M. Malar, Advocate sr 90082.

CMA.No.3780 of 2013

VBA(CO)
SP(05/03/2020)

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