

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.09.2019
CORAM:
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
CMA.No.1995 of 2014

1.N.Amulu
2.S.Loganayaki
3.N.Parameshwari
4.N.Ganesh
5.Alamelu ...Appellants/ Petitioners

.VS.

The Commissioner,
Corporation of Chennai - 3.
... Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 03.12.2013 passed in MCOP.No.653 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee.

For Appellants : Mr.Ma.Pa.Thangavel
For Respondent : No appearance

JUDGMENT

The appellants are the claimants in MCOP.No.653 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee. They filed the claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.20,00,000/- for the death of one Nagalingam, husband of the first claimant, father of the claimants 2 to 4 and son of the 5th claimant in a road accident on 24.05.2010.

2. The case of the claimants is that the deceased was a sanitary worker in the Corporation of Chennai and was on duty on 24.05.2010. At about 04.20 p.m, the driver of the JCB JS 200 belonging to the respondent / Commissioner, Corporation of Chennai, driven by its driver, rashly and negligently, hit the deceased Nagalingam, as a result whereof, he sustained fatal injuries and died on spot.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the JCB JS 200 belonging to the respondent / Commissioner, Corporation of Chennai and the respondent is liable to pay compensation of Rs.20,00,000/- to them.

4. The learned II Additional District Judge, Poonamallee after analysing the evidence on record, awarded a compensation of Rs.8,66,140/- together with interest at the rate of 7.5% per annum to the claimants. 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.Ma.Pa.Thangavel, learned counsel appearing for the appellants / claimants contended that though the deceased was earning a sum of Rs.10,940/- per month as sanitary worker as evidenced by the salary certificate (Ex.P5), the Tribunal fixed the notional income of the deceased only as Rs.6,064/- per month. He further contended that the Tribunal has not granted any amount towards future prospects and therefore prayed for enhancement of compensation.

6. No appearance for the respondent.

7. As per the salary certificate (Ex.P5) a sum of Rs.10,904/- is taken up for calculating loss of dependency. 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), 30% should be added towards future prospects of the deceased. Since there are five dependents, 1/4th should be deducted towards the personal expenses of the deceased. The deceased was aged 45 years on the date of accident 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

Notional Income = Rs.10,904/-

30% Future Prospects = Rs.3,271/-

Total = Rs.10,904/- + Rs.3,271/- = Rs.14,175/-

After 1/4 deduction = Rs.3,543/-

Loss of dependency

= Rs.10,632/- x 12 x 14

= Rs.17,86,176/-

8. 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 consortium" 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.17,86,176/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of consortium	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.18,56,176/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.8,66,140/- to Rs.18,56,176/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.8,66,140/- to Rs.18,56,176/-.

(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 is directed to deposit the enhanced compensation amount i.e., Rs.18,56,176/- (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.653 of 2010 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee 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 VI)

//True Copy//

Sub Assistant Registrar

mtl

To

The Motor Accidents Claims Tribunal,

The II Additional District Judge, Poonamallee.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.Ma.Pa.Thangavel , Advocate SR.No. 82350

C.M.A.No.1995 of 2014

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A.SK(05/02/2020)