

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3443 of 2012

Muniammal

... Appellant/Petitioner

..Vs..

1.L.Ramesh

2.M/S. Royal Sundaram Alliance
Insurance Company Limited
Sundaram Towers,
45 & 46, Whites Road,
Chennai 14.

.... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 28.12.2011 in M.C.O.P.No.469 of 2009 on the file of Additional District Judge, Fast Track Court-I, Poonamallee.

For Appellant : Ms.Y.Jayanthi Bhaskar
for M/s.J.Mahalingam.

For Respondents: No appearance

JUDGMENT

The appellant is the claimant in M.C.O.P.No.469 of 2009 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-I, Poonamallee. She filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T. Rules 1989, seeking compensation of Rs.10,00,000/- for the death of one Anandan, who died in a road accident that took place on 21.10.2007.

2.The brief case of the appellant/claimant is as follows:

On 21.10.2007, the deceased Anandan was traveling as a

pillion rider in a motor cycle bearing Registration No.TN 20 AY 6207 on Porur - Kunrathur road. At about 19.00 hours, a speeding lorry bearing Registration No.TN 21 M 0492 belonging to the first respondent hit the motor cycle, as a result of which, the rider of the two wheeler sustained grievous injuries and the deceased Anandan, the pillion rider died on the spot.

3.According to the appellant/claimant, the rash and negligent driving of the driver of the lorry bearing Registration No.TN 21 M 0492 belonging to the first respondent was the cause of the accident and that since the first respondent has insured his lorry with the second respondent, both of them are jointly and severally liable to pay compensation to her.

4.The first respondent remained absent before the tribunal and therefore, he was set ex-parte. The second respondent Royal Sundaram Alliance Insurance Company contested the claim petition by filing a counter. The learned Judge, Fast Tract Court-I, Poonamallee, after analysing the evidence on record, awarded a compensation of Rs.3,50,000/- together with interest at the rate of 7.5% per annum to the appellant/claimant from the date of claim petition till the date of deposit. Not satisfied with the award passed by the tribunal, the appellant/claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5.Ms.Y.Jayanthi Bhaskar, learned counsel appearing for the appellant contended that the tribunal did not award any amount towards future prospects, especially, when the deceased was aged just 28 years on the date of the accident and that a very meagre sum of Rs.20,000/- was awarded under the heads love and affection and funeral expenses. She would therefore contend that the award passed by the tribunal has got to be enhanced.

6.Eventhough, the names of the respondents were printed in the cause list, there is no appearance on their behalf.

7.It is evident from the records that the deceased was aged about 28 years and he was working as an electrician. The tribunal has fixed the monthly income of the deceased as Rs.5,000/-. Infact the claimant has filed a copy of the Identity Card (EX.P8) of the deceased to show that the deceased was working as an electrician. In these circumstances, fixing monthly income of the deceased at Rs.5,000/- by the tribunal is perfectly in order. However, the tribunal has not added any amount towards future prospects. As per the decision rendered 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. Thus, the monthly income of the deceased is

fixed at Rs.7,000/-. Since the deceased died as a Bachelor, 50% has to be deducted towards the personal expenses of the deceased.

8.A perusal of the records shows that the age of the deceased was 28 years on the date of the accident. Therefore, the proper multiplier to be adopted in the instant case is 17 as per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.
Calculation:

Notional Income = Rs.5,000/-
40% Future Prospects = Rs.2,000/-
Total = Rs.5,000/- + Rs.2,000/- = Rs.7,000/-

Multiplier Method:

= Rs.7,000/- * 12 * Multiplier 17 * 1/2 deduction
= Rs.14,28,000/- * 1/2 deduction
= Rs.7,14,000/-

Apart from this amount, the appellant/claimant is entitled to a sum of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- towards love and affection, funeral expenses and loss of estate respectively. Thus, the compensation amount is enhanced as detailed below:

S. No.	Head	Amount granted
1.	Loss of dependency	Rs.7,14,000 /-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.7,84,000 /-

9.In the result,

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

(ii) The compensation amount is enhanced from Rs.3,50,000/- to Rs.7,84,000/-.

(iii)The second respondent Royal Sundaram Alliance Company Limited is directed to deposit the enhanced compensation amount (Less the amount already deposited by them) together with interest at the rate of 7.5% per annum on Rs.7,84,000/- from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.469 of 2009 within a period of four weeks from the date of receipt of a copy of this order. On such deposit being

made by the second respondent, the appellant/claimant is at liberty to withdraw the same proposition as mentioned in the orders passed by the tribunal.

vkrr/bga

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Additional District Court,
Fast Track Court-I,
Poonamallee.

+2cc to Mr.J.Mahalingam, Advocate, S.R.No.705

C.M.A.No.3443 of 2012

Kak(26/03/2019)



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