IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CMA.No.2240 of 2014

1.S.Alamelu
2.S.Girija ... Appellants

vs.

The Managing Director,
State Express Transport Corp. Ltd.,
Chennai - 600 002. ...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 19.12.2013 passed in M.C.O.P.No.1170 of 2010 on the file of the Motor Accident Claims Tribunal/ III Additional District Judge, Thiruvallur @ Poonamallee.

For Appellants : Mr.C.Prabakaran

For respondent : Mr.K.J.Sivakumar

J U D G M E N T

The appellants are the claimants 1 and 3 in MCOP.No.1170 of 2010 on the file of the Motor Accident Claims Tribunal / III Additional District Judge, Thiruvallur. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.5,03,000/- for the death of one Sekar son of the claimants 1 and 2 and brother of the claimant 3 in a road accident on 29.10.2010. The second claimant died during the pendency of the claim petition.

2. The case of the claimants is that on 29.10.2010, when the deceased was riding his two wheeler bearing Registration No. TN 01/AD 9196 along Poonamalle high road, near Bilroth Hospital at Madhuravoyal, a speeding bus bearing Registration No. TN 01/N 8196 belonging to the respondent / State Express Transport Corporation Limited hit the two wheeler, as a result of which, the deceased Sekar fell down and died on the spot. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration No. TN 01/N 8196 was the cause of the accident and therefore they are liable to pay compensation.

3. The respondent / State Express Transport Corporation Limited contested the claim petition. The learned Motor Accident Claims Tribunal / III Additional District Judge, Thiruvallur after analysing the evidence on record, awarded a compensation of Rs.1,60,000/- together with interest at the rate of 7.5% per annum to the claimants 1 and 3. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants 1 and 3 have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.C.Prabakaran, learned counsel appearing for the appellants/ claimants 1 and 3 contended that though the deceased was 45 years on the date of the accident, the Tribunal had adopted wrong multiplier '5' and awarded a very meagre compensation to the claimants 1 and 3. He therefore prayed for enhancement of compensation.

5. Per contra, Mr.K.J.Sivakumar, learned counsel appearing for the respondent / State Express Transport Corporation Limited contended that the Tribunal after considering the principles of law which were in vogue at the time of passing the order, had adopted multiplier '5' and therefore, the same need not be disturbed at this stage.

6. In the instant case, the deceased was working as a sales assistant in a pharmacy and according to the claimants he was earning a sum of Rs.4,500/- per month. The deceased was aged 45 years on the date of the accident and he died as a bachelor. 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 deceased died as a bachelor, 50% of his income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 14 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, since the age of the deceased was 45 years on the date of the accident.

Calculation

Notional Income = Rs.4,500/-
25% Future Prospects = Rs.1,125/-
Total = Rs.4,500/- + Rs.1,125/- = Rs.5,625/-
After 50% deduction = Rs.2813/-

Loss of dependency

= Rs.2,813/- x 12 x 14
= Rs.4,72,584/-

7. Apart from the above said amount, the appellants / claimants 1 and 3 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.4,72,584/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.5,42,584/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,60,000/- to Rs.5,42,584/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,60,000/- to Rs.5,42,584/-.

(iii) The appellants are directed to pay 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 / State Express Transport Corporation Limited is directed to deposit the enhanced compensation amount i.e., Rs.5,42,584/- (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.1170 of 2010 on the file of the Motor Accident Claims Tribunal / III Additional District Judge, Thiruvallur 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 1 and 3 are at liberty to withdraw the same as per the order passed by the Tribunal after following the due process of law. The apportionment granted by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi

To

The Motor Accidents Claims Tribunal,
The III Additional District Judge,
Thiruvallur.

+1cc to M/s.C.Prabakaran, Advocate SR.83948
+1cc to M/s.K.J.Sivakumar, Advocate SR.84069

C.M.A.No.2240 of 2014

VSN II(CO)
CB(19/06/2020)