

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.2260 of 2014

1. Govindasamy
2. Shantha ... Appellants

vs.

1. A.Rubanandam
2. Reliance General Insurance Company Limited,
No.23, Spurtank Road, Chetpet,
Chennai 600 031. ... Respondents

Prayer: Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act against the orders dated 10.12.2012 passed in MCOP No.314 of 2009 by the Chief Judge/Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For Appellants : Mr.F.Terry Chellaraja

For Respondents : Mr.K.Moorthy (for R2)

No appearance for R1

JUDGMENT

The appellants are the claimants in MCOP No.314 of 2009 on the file of the Chief Judge/Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

2. The claimants/appellants filed the above said claim petition under Section 163-A of the Motor Vehicles Act and Rule 3 of the Motor Vehicle Rules, for the death of their son Yuvaraj in a road accident that took place on 23.06.2008 at about 12.15. hours, while he was riding his two wheeler bearing registration No. TN-21 M 8050 along E.C.Road, Periya Nemili, Kanchipuram District. According to the claimants, a Mahindra van bearing registration No. TN-21 U 4779 was parked on the road without any indicator light and the deceased Yuvaraj, who was not able to see the parked van, hit the van and sustained injuries all over his body. Immediately he was rushed to

Chettinad Medical Research Institute, Kelambakkam, Kancheepuram District. However, he succumbed to injuries on the same day. The further contention of the claimants is that the driver of the van bearing registration No.TN21-U-4779 parked his vehicle carelessly, without any indicator light and therefore, the owner as well as the insurer of the van are jointly and severally liable to pay compensation to them.

3. The Chief Judge/Motor Accident Claims Tribunal, Court of Small Causes, Chennai after analysing the evidence on record, awarded a compensation of Rs.4,04,500/- together with interest at the rate of 7.5% per annum. Not satisfied with the quantum of compensation, the claimants have filed the appeal for enhancement of compensation.

4. Mr.R.Terry Chellaraja, learned counsel appearing for the appellants/claimants contended that as per II Schedule appended to Section 163-A of the Motor Vehicles Act, multiplier to be adopted in the instant case is '17', since the age of the deceased was 22 years on the date of accident and that Tribunal had wrongly applied multiplier '15'.

5. A perusal of the orders passed by the Tribunal shows that the Tribunal had rightly fixed the annual income of the deceased as Rs.40,000/-, since the claim petition was filed under Section 163-A of the Motor Vehicles Act. However, the Tribunal had applied multiplier '15' instead of '17'. Therefore, by applying multiplier '17', loss of income is calculated as Rs.6,80,000 (40000 x 17). As per the Schedule 1/3 should be deducted towards personal expenses of the deceased. Thus, after deducting 1/3 towards personal expenses, loss of dependency is calculated at (6,80,000-2,26,666) Rs.4,53,334/-. As regards the other heads, the Tribunal had rightly awarded a sum of Rs.2,500/- towards 'loss of estate' and Rs.2,000/- towards 'funeral expenses', as per the structured formula of II Schedule appended to Section 163-A of the Motor Vehicles Act. Therefore, the total compensation awarded to the claimants is extracted hereunder.

Sl. No.	Heads	Amount
1.	Loss of dependency (40,000 x17 x1/3)	4,53,334
2.	Loss of estate	2,500
3.	Funeral expenses	2,000
4.	Ambulance bill	1,000
	Total	4,58,834
	Rounded off	4,58,840

This amount would carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

6. . In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs. The connected miscellaneous petition is closed.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.4,04,500/- to Rs.4,58,840/-

(iii) The insurance company is directed to deposit the enhanced compensation amount of Rs.4,58,840/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation (less the amount already deposited), within four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the Insurance Company, the claimants are at liberty to withdraw the same after following due process of law and as per the apportionment made by the Tribunal.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.

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

+1cc to Mr.M.Malar, Advocate Sr.79099

+1cc to Mr.K.Moorthy, Advocate Sr.79743

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