



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.470 of 2014

1.T.Natarajan

2.N.Umapathy

3.N.Dilli

...Appellants/Petitioners

.Vs.

1.N.D.R.ware housing Pvt Ltd.,
9, 4th Floor, Erabalu Chetty St, Chennai-1

2.The New India Assurance Co Ltd.,
T.P.Cell, No.45, Moore St, Chennai-1

3.Anandhan

4.United India Insurance Co Ltd.,
No.38, Anna Salai, Chennai-2
Now 4th Respondent Office at
No.134, Greams Road,
Chennai-6

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and decree made in MCOP.No.2420 of 2006 dated 28.09.2010 on the file of the Motor Accidents Claims Tribunal(III Judge, Small Causes Court), Chennai.

For Appellants : Ms.A.Subadra

For R1 and R3 : Set Ex-parte

For R2 : Mr.K.Thirunavukkarasu

For R4 : M/s.R.Rathanthara

JUDGMENT

The appellants are the claimants in MCOP.No.2420 of 2006 on the file of III Judge / Motor Accident Claims Tribunal, Small Causes Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.9,00,000/- for the death of one Govindammal in a road accident that took place on 31.01.2006.



2. The case of the claimants is that when the deceased Govindammal was travelling in an auto bearing Reg.No.TN 21 M 6496 from Thirukkazhukundram to Satras, a speeding mini lorry bearing Reg.No.TN 04 P 1860 which came on the opposite direction hit the auto, as a result of which Govindammal died on the spot. According to the claimants the rash and the rash the negligent driving of the driver of the mini lorry belonging to the first respondent and insured with the second respondent / The New India Assurance Company Ltd was the cause of the accident and therefore the owner of the mini lorry and the second respondent / The New India Assurance Company Ltd are liable to pay compensation to them. The owner of the auto in which the deceased was travelling and the insurer of the auto were shown as respondents 3 and 4 in the claim petition. According to the claimants, they were impleaded as formal parties.

3. The Tribunal while awarding compensation of Rs.4,40,000/- together with interest at the rate of 7.5 % per annum, directed the first and second respondents to pay the compensation amount together with interest of 7.5 % per annum to the claimants and dismissed the claim petition as against the third and fourth respondents. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants filed the present appeal.

4. Miss.A.Subadra, learned counsel appearing for the appellants / claimants would contend that though the deceased was engaged in the business of preparing snacks and was earning a sum of Rs.7,000/- per month, the Tribunal has fixed the monthly income only as Rs.3,500/-. Therefore she prayed for enhancement of monthly income of the deceased.

5. Per contra, M/s.R.Rathanthara, learned counsel appearing for the second respondent contended that the Tribunal after analysing the evidence on record and the principles of law which were in vogue at the time of passing award had directed the The New India Assurance Company Ltd to pay compensation of Rs.4,40,000/- and the same need not be disturbed at this stage.

6. In the instance case, the deceased was aged about 40 years on the date of accident and it is contended by the claimants that she was engaged in the business of selling snacks. Therefore as the accident took place in the year 2006, the monthly income of the deceased is fixed at Rs.4,500/-. As per the decision rendered in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601 (SC) 25% should be added towards the future prospects of the deceased and as there are three dependents, $1/3^{\text{th}}$ of the income should be deducted towards personal expenses of the deceased. The proper multiplier to be adopted in the instant case is 15 as per the



decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. the Loss of dependency is calculated as follows:

Calculation

Notional Income = Rs.4,500/-

40% Future Prospects = Rs.900/-

Total = Rs.4,500/- + Rs.900/- = Rs.5,400/-

After 1/3th deduction = Rs.3,600/-

Loss of dependency:

= Rs.3,600/- x 12 x 15

= Rs.6,48,000/-

7. 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 dependency	Rs.6,48,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.7,18,000/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.4,40,000/- to Rs.7,18,000/-.

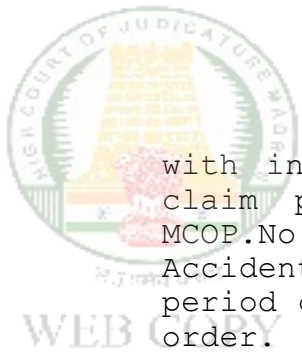
9. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.4,40,000/- to Rs.7,18,000/-.

(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 the receipt of Court fee.

(iv) The second respondent, New India Assurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.7,18,000/- (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.2420 of 2006 on the file of the III Judge / Motor Accident Claims Tribunal, Small Causes Court, Chennai within a period of three 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 apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

+1cc to Mr.K.Thirunavukarasu, Advocate Sr.80071
+1cc to Mr.V.Velu, Advocate Sr.80319
+1cc to M/s.R.Rathnathara, Advocate Sr.80464

CMA.No.470 of 2014

ssd[col]
srg 14/07/2020