

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.09.2019
CORAM:
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
CMA.No.69 of 2014

- 1.M.Kanaga
- 2.Minor Vignesh
- 3.Minor Vinothini
- 4.Meggatthai
- 5.Annappan

Minors represented by their mother and
Natural Guardian and next friend
of first Appellant

...Appellants

.Vs.

- 1.Sree Venus Energy Systems (P) Limited,
No.135, Burma Colony,
Perungudi,
Chennai - 600 096
- 2.New India Assurance Company Limited,
No.45, Moore Street,
Chennai - 600 001

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 03.06.2008 and made in M.A.C.T.O.P.No.1770/2005 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellants : Ms.A.Subadra
For Respondents : No appearance

JUDGMENT

The appellants are the claimants in MCOP.No.1770 of 2005 on the file of the IV 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.15,00,000/- for the death of one Murthy in a road accident that took place on 25.03.2005.

2. The case of the claimants is that when the deceased was riding his bicycle along East Coast Road from Pudupattinam to Melperumalcherry, a speeding Eicher Van bearing Reg.No.TN-07-AD-1670 belonging to the first respondent and insured with the second respondent / The New India Assurance Company Limited hit the bicycle, as a result of which, the deceased fell down and died on the spot. According to the claimants, the rash and negligent driving of the driver of the Eicher Van bearing Reg.No.TN-07-AD-1670 was the cause of the accident and that since the vehicle is insured with the second respondent both of them are jointly and severally liable to pay compensation to the claimants.

3. The learned IV Judge / Motor Accident Claims Tribunal, Small Causes Court, Chennai, after analysing the evidence on record awarded a compensation of Rs.7,18,000/- together with interest at 7.5% per annum to the claimants. Not satisfied with the amount of quantum of compensation awarded by the Tribunal, the claimants have filed the present petition.

4. No appearance on behalf of the respondents.

5. Miss.A.Subadra, learned counsel appearing for the appellants / claimants would contend that the claimants have filed a salary certificate (Ex.P7) stating that the deceased was earning a sum of Rs.1,800/- per week, the Tribunal had fixed the notional income of the deceased as Rs.3,000/- per month. She further contended that the Tribunal did not consider the oral evidence of the employer of the deceased. She therefore would contend that the income of the deceased should be fixed at Rs.7,200/- per month.

6. In the claim petition it is stated that the deceased Murthy was a Mason and was earning a sum of Rs.7,200/- per month. Ex.P7, Salary Certificate issued by PW3, Mr.Radhakrishnan states that the deceased was receiving a salary of Rs.1,800/- per week. It is pertinent to point out that no documentary evidence was adduced by PW3 to substantiate his contention that he was actually paying Rs.1,800/- to the deceased. Since the accident took place in the year 2005, the notional income of the deceased is fixed at Rs.4,500/- per month. The age of the deceased was 29 years on the date of accident and 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. Since there are five dependents, 1/4th of the income should be deducted towards personal expenses of the deceased.

7. Furthermore, 40% should be added towards the future prospects of the deceased, as per the decision rendered in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601 (SC). Loss of dependency is calculated as follows:

Calculation

Notional Income = Rs.4,500/-

40% Future Prospects = Rs.1,800/-

Total = Rs.4,500/- + Rs.1,800/- = Rs.6,300/-

After 1/4th deduction = Rs.1,575/-

Loss of dependency:

= Rs.4,725/- x 12 x 17

= Rs.9,63,900/-

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 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.9,63,900/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.10,33,900/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.7,18,000/- to Rs.10,33,900/-.

10. In the result, सत्यमेव जयते

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.7,18,000/- to Rs.10,33,900/-.

(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, National Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.10,33,900/- (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.1770 of 2005 on the file of the IV Judge / Motor Accident Claims Tribunal, Small Causes Court, Chennai 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 apportionment made by the Tribunal shall be kept intact.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

lok

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

+1 cc to M/s.V.Velu Advocate sr80320

CMA.No.69 of 2014

aa24/08/2020

सत्यमेव जयते

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