

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.514 of 2017

1.Pushpam

2.Ramesh Kannan

3.Nagarajan (minor)

(Declared as major as per order in
M.P.No.1092/13 dated 13.02.2013)..

... Appellants/ Petitioners

Vs

1.Shabeer Rangoon Wala

2.Bajaj Allianz General Insurance
Prince Tower, 4th Floor, 25/26,
College Road,
Chennai-6.

... Respondents/ Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 13.08.2013 made in MCOP No.4113 of 2011 on the file of the Motor Accidents Claims Tribunal (VI Small Causes Court), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : No appearance for R1
Mr.G.Vasudevan for R2

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.6,93,200/- towards compensation due to the death of the husband of the first appellant, in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 09.04.2011 at about 08.20 hours, the deceased Sudamani @ Peter Sudamani, was riding his bicycle along the road in front of Chanakya Building, Renuka Nagar, Mumbai. At that time, the car bearing Reg.No.MH-03-AR-1938

belonging to the first respondent and insured with the second respondent Insurance Company, came from the same direction in a rash and negligent manner and hit the deceased. Due to the said impact, the deceased sustained fatal injuries and he later succumbed to the injuries in the hospital. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.12,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.6,93,200/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellants -claimants have filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellants /claimants has submitted that the amount awarded by the Tribunal towards pecuniary benefits, as against the claim of Rs.9,00,000/- made by the claimants, is very low. It is also submitted that the monthly income of the deceased fixed by the Tribunal at Rs.4,500/- while arriving at the compensation towards loss of pecuniary benefits, is very low. It is also submitted that the amounts awarded by the Tribunal towards various heads are meagre and hence the same requires enhancement.

5.The learned counsel for the second respondent / Insurance Company has submitted that the Tribunal has awarded the compensation which is just and reasonable and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Loss of estate	5,000/-
Loss of love and affection	50,000/-
Funeral expenses	25,000/-
Transport expenses	25,000/-
Loss of consortium	50,000/-
Loss of pecuniary benefits	5,38,200/-

TOTAL...	6,93,200/-
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8. Considering the materials and evidence available on record, this Court is of the considered view that the amounts awarded by the Tribunal towards various heads other than the one awarded towards 'Loss of pecuniary benefits' are very reasonable and hence the same are confirmed. It is the claim of the claimants that the deceased was a Britannia Distributor and was contributing a sum of Rs.20,000/- for family expenses, but the Tribunal, while arriving at the compensation towards 'Loss of pecuniary benefits', has fixed the monthly income of the deceased at Rs.4,500/-. This Court is of the considered view that it would be appropriate to fix the monthly income of the deceased at Rs.6,000/-. Further, the Tribunal has deducted 1/3rd of the amount towards personal expenses of the deceased, from the monthly income of Rs.4,500/- fixed by the Tribunal. Considering the claim made by the claimants that the deceased was contributing substantial amount to the dependants and the fact that the dependants are three in number, this Court is of the considered view that a deduction of 1/4th of the amount towards personal expenses of the deceased to arrive at the pecuniary loss, would meet the ends of justice. If the monthly income of the deceased is fixed at Rs.6,000/- and if 1/4th of the amount is deducted from the said sum of Rs.6,000/-, the net income works out to Rs.4,500/-. After addition of 15% of Rs.4,500/- as future prospects to the income of the deceased and adopting the multiplier of 13, the loss of pecuniary benefits works out to Rs.8,07,300/- (Rs.5,175/- x 12 x 13). The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Loss of estate	5,000/-
Loss of love and affection	50,000/-
Funeral expenses	25,000/-
Transport expenses	25,000/-
Loss of consortium	50,000/-
Loss of pecuniary benefits	8,07,300/-

TOTAL...	9,62,300/-
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9. Thus, the appellants / claimants are entitled to the modified compensation of Rs.9,62,300/-. It is made clear that only for the compensation of Rs.6,93,200/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced amount of Rs.2,69,100/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. The shares of the claimants shall be in the same proportion as apportioned by the Tribunal.

10.The second respondent Insurance Company is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

11.The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

KM

To

1.The VI Judge,
Motor Accidents Claims Tribunal
(Small Causes Court), Chennai.

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

+1cc to Mr.K.Varadha Kamaraj , Advocate SR.No. 84880

+1cc to Mr.G.Vasudevan , Advocate SR.No. 84409

C.M.A.No.514 of 2017

A.SK(24/07/2020)

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