

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2924 of 2018

1.Veerajothi
2.Jayamoorthy

... Appellants/Petitioners 1, 2 in Tribunal below

-Vs-

1.Iyyanar
2.Cholamandalam Ms.General Insurance
Company Limited,
No.2, Dar House, 2nd Floor,
NSC Bose Road,
Chennai 600 001.

3.Meena

...Respondents 1, 2/Respondent 1, 2 and 3rd Petitioner in
Tribunal below

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the Judgment and Decree
in M.C.O.P.No.209 of 2016 on the file of the Special District
Judge (FAC), Villipuram (To deal with MCOP cases) dated
09.04.2018.

For Appellants : Mrs.R.Poornima

For Respondents : Mr.M.B.Raghavan for
M/s.M.B.Gopalan Associates
for R2.

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the claimants
aggrieved over the quantum of compensation of Rs.7,18,000/-
awarded for the death of one Mr.Karthik aged about 21 years,
working as an Assistant Engineer in a private company
allegedly earning about Rs.18,000/- per month in the accident
occurred on 14.02.2016, when he was riding his two wheeler
along with one pillion rider from his native place to Chennai
and was hit down by a TATA Ace belonging to the 1st respondent
insured with the 2nd respondent driven rashly and negligently.

2.Heard Mrs.R.Poornima, learned Counsel for the appellants and Mr.M.B.Raghavan, learned Counsel for the 2nd respondent.

3The only question which has to be decided is the quantum of compensation as there is no appeal by the insurance company against the finding of negligence. Therefore, the said finding has already attained finality.

4.Though Mrs.R.Poornima, learned Counsel for the appellants would argue that the deceased was earning Rs.15,000/- per month as per Ex.P.7 viz., bank passbook in a private company, a perusal of the said passbook would reveal that he was earning about Rs.12,000/- and therefore, the amount fixed by the tribunal at Rs.6,000/- per month is contrary to the evidence and therefore, the same is set aside and this Court redetermines the monthly income at Rs.12,000/- per month based on Ex.P.7.

5.The age of the deceased is 26years as proved by Ex.P.10 viz., transfer certificate and therefore, 40% is added towards future prospects. If 40% is added, the monthly income would be Rs.12,000 + 40% (Rs.4,800/-) = Rs.16,800/-. Since the deceased was a bachelor 50% has to be deducted towards personal expenses. After the deduction of 50%, loss of income would be Rs.16,800 - 50% = Rs.8,400/-. The appropriate multiplier '17' has been rightly adopted by the tribunal as per the Judgment of "Sarla Verma's Case" and hence, the loss of income would be Rs.8,400/- x 12 x 17 = Rs.17,13,600/-

6.Rs.20,000/- awarded towards Funeral expenses and Rs.10,000/- awarded towards transportation are confirmed. Rs.40,000/- awarded towards loss of estate is reduced to Rs.15,000/- and Rs.36,000/- awarded by the Tribunal towards future prospects is deleted. Further, no amount has been awarded towards loss of love and affection. The parents have lost their only son. When the son was earning, in the initial days itself, they lost their son. The expectation of the parents that they will be looked after by their son in the evening of their life is lost. Therefore, Rs.75,000/-each is awarded towards loss of love and affection to the parents of the deceased. Therefore, the sum of Rs.7,18,000/- awarded by the tribunal is modified as follows:

SI.No	Head	Amount (Rs.)
1.	Loss of income	17,13,600/-
2.	Loss of Love and affection	1,50,000/-
3.	Funeral Expenses	20,000/-
4.	Loss of estate	15,000/-
5.	Transportation	10,000/-

SI.No	Head	Amount (Rs.)
	Total	19,08,600/-
	Rounded off	19,00,000/-

7.Hence, the total compensation payable in this case is Rs.19,00,000/-. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed.

8.The 2nd respondent/insurance company is directed to deposit the entire award amount as per the order of this Court before the Tribunal along with interest and costs after deducting the amount, if any, already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the tribunal is directed to transfer the amount equally to the respective accounts of the appellants through RTGS within a period of one week.

9. Accordingly, this appeal is partly allowed by enhancing the award of the Tribunal from Rs.7,18,000/- to Rs19,00,000/-. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1.The Special District Judge, (FAC)
The Special District Court,
(To deal with M.C.O.P.Cases),
Villupuram.

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

+1cc to M/s.Poornima, Advocate SR.No.102306

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.102602

C.M.A.No.2924 of 2018

BR (CO)
GMY (20/08/2020)