BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CMA(MD).No. 1312 of 2009

1.S. Uma
2.S.Geetha
3.S.Alagarsamy
4.S.Ravikrishnan : Appellants / Petitioners

Vs.

1.A. Srinivasan

2.United India Insurance Company Ltd.,
Seethalakshmi Complex,
Tirunagar,
Madurai.
Through its Branch Manager. : Respondent/2nd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Judgment and Decree of the learned Motor Accidents Claims Tribunal / III Additional District and Sessions Judge, (PCR) at Madurai in MCOP.No. 1432 of 2002, dated 15.04.2008.

For Appellants : Mr. S. Palani Velayutham
For R2 : Mr. P. Jeganathan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants / claimants against the Award dated 15.04.2208 made in MCOP.No. 1432 of 2002 on the file of Motor Accidents Claims Tribunal / III Additional District and Sessions Judge, (PCR) at Madurai.

2. On 03.12.2000 at about 14.50 hours, the 2nd appellant along with her mother were travelling in the first respondent's car bearing Registration No. TN58A 2525 in order to go to Chennai from Madurai. While the car was reaching Vikaravandy, North Bye pass Road, the first respondent drove the car in a rash and negligent manner, dashed against a Culvert. Due to the accident, the occupants of the car including Saroja, Geetha and minor Vishal Prathush sustained multiple grievous injuries and Saroja died in the hospital on 06.12.2000. The Maruthi car, which belongs to the first respondent, was insured with the 2nd respondent Insurance company, for comprehensive risks with effect from 08.01.2000 to 07.01.2001. Therefore, the appellants, who are the legal heirs of the deceased have filed the claim petition claiming a sum of Rs.6,00,000/- as compensation.

3. The Tribunal, after considering the pleadings, evidence both oral and documentary let in by the parties, came to the conclusion that the accident occurred only due to the rash and negligent driving by the driver - cum - owner of the vehicle and awarded a sum of Rs.2,34,000/- as compensation.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal for enhancement of compensation on the ground that the compensation awarded by the Tribunal in all the heads i.e., towards loss of income, loss of love and affection, funeral expenses etc., are too low.

5. The Tribunal has awarded compensation to the appellants / claimants in the manner stated below:

S.No.	Heads	Amount
1	Pecuniary Loss	1,50,000.00
2.	Loss of love and affection (each Rs.5,000/-)	20,000.00
3.	Funeral Expenses	2,000.00
4.	Transportation	500.00
5.	Damage of Clothing	500.00
6.	Medical reimbursement	61,000.00
	Total	2,34,000.00

6. It is a case of fatal. The deceased was 50 years old at the time of accident. The learned counsel appearing for the appellants / claimants contended that the amount awarded by the Tribunal is too low in all the heads. The pecuniary loss is concerned, the Tribunal ought to have applied multiplier method. But, the Tribunal has awarded a sum of Rs.1,50,000/- in lumpsum as pecuniary loss. The learned counsel appearing for the appellants, would contend that the Tribunal ought to have applied multiplier method and determined the Loss of Income. Therefore, he contended that the award of the Tribunal requires interference by this Court.

7. On the other hand, the learned counsel appearing for the 2nd respondent / Insurance Company would contend that the compensation awarded by the Tribunal is just and fair and hence, the same may be confirmed by this Court.

8. I have heard the learned counsel appearing on either side and perused the materials available on record.

9. On perusal of the records, it is seen that the deceased was 50 years old at the time of accident and the accident is of the year

2000, the Tribunal has awarded Rs.1,50,000/- in lumpsum towards pecuniary loss without any income proof. Even though no income proof is produced, this Court is of the view that the Tribunal ought to have fixed the notional income of the deceased and awarded the compensation. Considering the year of accident, it would be appropriate to fix the notional income of the deceased at Rs.3,000/- per month. As per the Judgment of the Hon'ble supreme Court reported in ***2017(2) TNMAC 609(SC) (National Insurance Company Limited Vs. Pranay Sethi and others)*** and considering the age of the deceased i.e., 50 years, 25% of the income ought to have been added towards future prospectus in the income of the deceased. Further, $1/4^{th}$ to be deducted towards personal expenses, considering the number of four dependants and the correct multiplier applicable for in the present case is 13. Therefore, the loss of income is calculated as follows:

Rs.3,000/- + Rs.750/- x 13x12x 3/4 = Rs.4,38,750/-

Accordingly, the amount awarded by the Tribunal towards pecuniary loss is hereby enhanced from Rs.1,50,000/- to Rs. 4,38,750/-. With regard to compensation awarded by the Tribunal under all other head are just and proper and the same is confirmed.

10. Accordingly, the amount awarded by the Tribunal is enhanced from 2,34,000/- to Rs.5,22,750/- together with interest at 7.5% per annum from the date of accident till the date of deposit as compensation in the manner stated below:

S.No.	Heads	Amount
1	Loss of income	4,38,750.00
2.	Loss of love and affection (each Rs.5,000/-)	20,000.00
3.	Funeral Expenses	2,000.00
4.	Transportation	500.00
5.	Damage of Clothing	500.00
6.	Medical reimbursement	61,000.00
	Total	5,22,750.00

11. The 2^{nd} respondent / Insurance Company is directed to deposit the entire award amount of Rs.5,22,750/- together with interest at 7.5% per annum from the date of petition till the date of deposit and costs to the credit of MCOP.No. 1432 of 2002, on the file of the Motor Accidents Claims Tribunal / III Additional District and Sessions Judge, (PCR) at Madurai, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of copy this order. On such deposit, the

appellants 1 to 4 / claimants are entitled to their shares as per the apportionment fixed by the Tribunal together with interest at 7.5% per annum from the date of petition till the date of deposit and costs. The Tribunal is directed to transfer the share of the appellants 1 to 4 / claimants directly to their Bank account through RTGS within a period of two weeks, thereafter.

12. In fine, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

To

The Motor Accidents Claims Tribunal /
III Additional District and Sessions Judge, (PCR) at Madurai

+1 CC to Mr.S.PALANIVELAYUTHAM, Advocate (SR-98558[F] dated 15/11/2019)

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