IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.723 of 2006

(Through Video Conferencing)

1.Mariammal

2.Kaviarasu (Minor)
represented by Mother and next
friend Mariammal. ... Appellants/Petitioners

Vs.

1.M/s.IJM-SCL Joint Venture,
Survey No.283/1 & 283/2,
Kamarajapuram, Anakaputhur,
Thiruvallore District.

2.The United India Ins. Co. Ltd.,
Motor III Party Claims Office,
No.38, Anna Salai, Chennai - 2. ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 05.04.2004 and made in M.C.O.P.No.104 of 2003, on the file of the Motor Accident Claims Tribunal, Fast Track Court-IV, Additional District Judge, Poonamallee.

For Appellant : M/s.Y.Jayanthi
for Mr.J.Mahalingam

For R2 : Mr.S.Arunkumar

WEB COPY

J U D G M E N T

The appellants, who are the legal heirs and the dependants of the deceased Kannan, have filed the present Civil Miscellaneous Appeal against the impugned judgment and decree dated 05.04.2004 passed in M.C.O.P.No.104 of 2003 by the Motor

https://hcservices.ecourts.gov.in/hcservices/

Accidents Claims Tribunal, Fast Track Court-IV, Additional District Judge, Poonamallee.

2. By the impugned order, the Tribunal has awarded a sum of Rs.1,66,000/- only to the appellants/claimants as against the claim amount of Rs.9,00,000/-. In the present appeal, the appellants have restricted to claim for a sum of Rs.4,00,000/-. The Tribunal has awarded the aforesaid compensation under the following heads:-

Loss of Income : Rs.3000/- Less - Personal Expenses (2/3rd) : Rs.2000/- -------------- Rs.1000/- Multiplier (13 years) (1,000 x 12 x 13)	Rs.1,56,000/-
Funeral Expenses	Rs. 5,000/-
Loss of Love and Affection to the 1st appellant	Rs. 5,000/-
Total	Rs.1,66,000/-

3. The dispute in the present Miscellaneous Appeal is confined to the quantum of compensation awarded by the Tribunal. It is submitted that the compensation awarded is not correct. It is submitted that personal expenses of the deceased has been wrongly deducted. It is also submitted that if the ratio of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 121 and National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 is applied, the appellants would be entitled to receive a sum of Rs.6,04,800/-. It is therefore submitted that the appellants are entitled to higher compensation.

4. The learned counsel for the appellants submits that the appellants also would be entitled to enhanced compensation towards the loss of estate of the deceased Kannan, Transport and Funeral Expenses and towards the loss of Love and Affection.

5. Per contra, Mr. Arun Kumar, the learned counsel for the 2nd respondent fairly concedes that the issue is covered by two decisions of the Hon'ble Supreme Court and submits that quantum

https://hcservices.ecourts.gov.in/hcservices/

of compensation has to be re-quantified by determining the compensation on 50% of the income. He fairly submits that the Tribunal has partly erred in restricting the compensation to $1/3^{rd}$ of the wages and therefore, the compensation can be partially re-quantified. According to him, the compensation to be awarded to the appellants would be around of Rs.4,80,000/-.

6. I have considered the evidence on record, grounds of appeal, impugned Judgment and Decree and the decisions of the Hon'ble Supreme Court. The deceased Kannan was a bachelor, aged 22 years at the time of his death. Therefore,I am of the view that the appellants are entitled to higher compensation. The compensation re-quantified is follows:-

Loss of Income : Rs.3000/- Less - Personal Expenses (50%) : Rs.1500/- -------------- Rs.1500/- Multiplier (18 years) (1,500 x 12 x 18)	Rs.3,24,000/-
Future Prospects (40%) (3,24,000 x 40%)	Rs.1,29,600/-
Loss of estate	Rs. 15,000/-
Transport and Funeral Expenses	Rs. 15,000/-
Loss of Love and Affection	Rs. 40,000/-
Loss of Amenities	Rs. 40,000/-
Total	Rs.5,63,600/-

7. The Hon'ble Supreme Court in Sarala Verma case (supra), held as follows:-

> 31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is

https://hcservices.ecourts.gov.in/hcservices/

> assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.
>
> 32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

8. This view was reiterated by the another decision of the Hon'ble Supreme Court in Pranay Sethi case (supra).

9. The appellant are also entitled to interest at 6% per annum on the balance amount. Since the appellants/claimants are entitled for the aforementioned compensation, the appellants are directed to remit appropriate court-fee for an amount of Rs.1,63,600/- (5,63,600 - 4,00,000), within a period of four weeks from the date of receipt of a copy of this judgment.

10. The 2nd respondent Insurance Company is directed to deposit the amount of compensation of Rs.5,63,600/- and cost, less already deposited if any, together with interest at 6% per annum from the date of filing of the claim petition till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made by the 2nd respondent, the appellants are permitted to withdraw the same, in the same proportion and condition as was ordered by the Tribunal, by filing suitable application before the Tribunal.

https://hcservices.ecourts.gov.in/hcservices/

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar (CS VI)

/true copy/

Sub Asst. Registrar

jen
To:
The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court-IV, Poonamallee.

Copy to

The Section Officer

VR Section High Court, Madras

C.M.A.No.723 of 2006

sai(co)
aa07/01/2021

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/