



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4191 of 2008

(Through Video Conferencing)

1.Saroja
2.Minor.Shantha
3.Minor.Vijayakumar
(Minor appellants represented
by their mother and natural guardian/saroja
1stappellant.) ... Appellants/Claimants

vs.

1.K.Dharmaraj
2.A.Vijaya Sudha
3.The Branch Manager,
M/s.Oriental Insurance Co. Ltd.,
33-C-10, Thanjavur Road,
Thiruvarur.
(Respondents 1 and 2 remained exparte
before the Tribunal) ... Respondents/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Additional District Court) Karaikal in M.A.C.T.O.P.No.82 of 2006 dated 30.03.2007.

For Appellants : R.Vasudevan

For R3 : M/s.R.Sreevidhya for
Mr.R.Ravichandran

R 1 & R2 : Exparte

J U D G M E N T

The appellants were the claimants. They are aggrieved by the impugned Judgment and Decree dated 30.03.2007 passed by the Motor Accident Claims Tribunal, (Additional District Judge) Karaikal in M.A.C.T.O.P.No.82 of 2006.



2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,85,000/- together with interest at 7.5% from the date of filing of the claim petition till the date of deposit to the claimants/appellants. Aggrieved by the same, the appellants have filed the present Civil Miscellaneous Appeal for enhancement of compensation.

3. The facts of the case are that on 21.11.2005 at about 17.00 hours when the deceased was travelling as a pillion rider along with his friend in a bicycle, a bus bearing Reg.No.PY 02 B 9522 belonging to the 2nd respondent and insured with the third respondent, driven by the 1st respondent allegedly in a rash and negligent manner and came from the same direction and hit against the bicycle, as a result of which, he suffered grievous injuries and later died in the hospital.

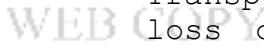
4. In this Civil Miscellaneous Appeal, the appellants seeking for enhancement of the compensation primarily on the ground that the Tribunal has considered only a notional income of the deceased who died on 06.02.2006 in pursuant to the accident on 21.11.2005. That a part it is submitted that the deceased was aged about 45 years, however the Tribunal has taken the age of the deceased as 56 years .

5. The learned counsel for the appellants placed reliance on the ration card as per which, the age of the deceased is 45 years and the same has to be considered. It is therefore submitted by the learned counsel for the appellants-claimants that the Tribunal has wrongly considered the age of deceased as 56 years. He further submits that the Tribunal erred in fixing the multiplier of 8 instead of 9. It is further submitted that the appellants are entitled to enhanced compensation towards loss of consortium, loss of love and affection. It is further submitted that the Tribunal has not awarded any amount of compensation towards future prospects. The appellants therefore prayed for enhancement of the award amount in this appeal.

6. Per contra, the learned counsel for the 3rd respondent- Insurance Company submits that the impugned order was well reasoned and requires no interference.

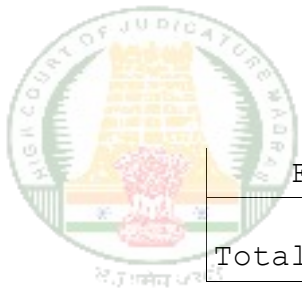
7. I have considered the arguments advanced by the learned counsel for the appellants and the learned counsel for the 3rd respondent-Insurance Company. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

8. The - Ex.P.10 - ration card is dated 25.07.2005. The accident took place in the same year on 25.11.2005. The age of the deceased in Ex.P.10 stands confirmed as 45.



10. Considering these aspects, this Court is inclined to enhance the compensation awarded to the appellants under the various heads as follows:

Heads and Calculation	Amount awarded by this Court
Loss of dependency Monthly Income of the deceased: Rs.3,000/- Less 1/3rd personal expenses : Rs.1,000/- ----- : Rs.2,000/- Add: Future prospects @ 25% Rs. 500/- ----- Rs.2,500/- ----- Loss of income for 12 months Rs.2,500x12) : Rs.30,000/- Multiplier 14 (Rs.30,000x14) : Rs.4,20,000/-	Rs.4,20,000
Loss of consortium to the 1 st appellant	Rs. 40,000
Loss of love and affection (Rs.40,000 x 2)	Rs. 80,000



Funeral expenses	Rs. 10,000
Total	Rs.5,50,000

WEB COPY

11. Therefore, the 3rd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.5,50,000/- together with interest at 7.5% from the date of filing of the claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit, the 1st appellant/1st claimant is permitted to withdraw a sum of Rs.2,50,000/- together with interest thereon at 7.5% p.a. The 2nd and 3rd appellants are entitled to a sum of Rs.1,50,000/- each together with interest at 7.5% p.a. The 2nd and 3rd appellant were aged about 17 & 13 years respectively at the time of filing of the claim petition in 2008, since the 2nd and 3rd appellants would have attained the age of majority. Therefore, they are permitted to withdraw their share by filing appropriate applications before the Tribunal.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

kkd

To

The Motor Accidents Claims Tribunal,
(Additional District Judge), Karaikal.

Copy To

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

C.M.A.No.4191 of 2008

MG (CO)
GMY (01/11/2021)