

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2400 of 2010

(Through Video Conferencing)

Subbayal @ Subbalakshmi ... Appellant/Petitioner

vs.

1. Muthusamy

2. Murugesan

3. United India Insurance Co., Ltd.,
Gopichettipalayam.

4. New India Assurance Co., Ltd.,
Gopichettipalayam.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.03.2003 made in M.C.O.P.No.48 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Court (Fast Track Court No.2) Gopichettipalayam.

For appellant : Mr. T.Saravanan
For 2nd respondent : Mr. Ma.P.Thangavel
For 3rd respondent : Mrs.R.Sreevidhya
For 4th respondent : Mr. C.Rameshbabu

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant against the impugned Judgment and Decree dated 18.03.2003 passed by the Motor Accidents Claims Tribunal, Additional District Court (Fast Track Court No.2) Gopichettipalayam, in M.A.C.T.O.P.No.48 of 2002.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.50,000/- as compensation together with interest at 9% per annum from the date of the claim petition till the date of deposit, to the appellant/claimant.

3. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed by the claimant for an enhancement of compensation. The appellant is the mother of the deceased Shankar @ Murugayyan who was aged about 21 years at the time of the death/accident.

4. The learned counsel for the appellant submits that the Tribunal erred in awarding a low compensation of Rs.50,000/-. He further submitted that the Tribunal has wrongly fixed the notional monthly income of the deceased a sum of Rs.3,000/- and deducted 1/3 income of the personal expenses of the deceased. It is submitted that the Tribunal ought to have fixed the income of Rs.3,000/- p.m. It was further submitted that the Tribunal has not awarded any compensation towards loss of future prospects and towards loss of love and affection and prayed for enhancement of the award of the Tribunal .

5. Per contra, the learned counsel for the 3rd respondent-Insurance Company submitted that the amounts awarded by the Tribunal is not meagre and the impugned Judgment and decree was well reasoned and requires no interference and therefore this civil miscellaneous appeal was liable to be dismissed.

6. I have heard the learned counsel for the appellant and respondent and I have also perused the impugned Judgment and decree and evidence on record.

7. It is noticed that the Tribunal has taken a notional income of Rs.1,500/- and deducted a sum of Rs.500/- towards personal expenses of the deceased and awarded a sum of Rs.50,000/- without applying multiplier. As per the decisions of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12 and in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130 : 2018 OnLine SC 1546, the compensation awarded by the Tribunal has to be increased. The date of accident is 9.3.1991. Therefore, it would be appropriate to consider the notional income of the deceased as Rs.1,750/- p.m. Since the deceased was supporting the family consisting of his mother, it would be reasonable to deduct only 1/3rd of the aforesaid notional income towards personal expenses of the deceased. The Tribunal ought to have awarded the compensation by applying correct multiplier of 18 as the deceased was aged 21 years.

8. The appellant is entitled for further amount towards future prospects as per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and

Others, (2017) 16 SCC 680, Therefore, 40% is to be added towards future prospects. Thus, the compensation awarded by the Tribunal is enhanced and modified as follows:

Heads and Calculation	Amount of compensation
Loss of dependency:-	
Monthly Income of the deceased	
: Rs.1,750.00	
Add: Future Prospectus at 40%	
(7000 x 40/100)	: Rs. 700.00

	: Rs. 2,450.00
Less: Personal Expenses at	
1/3 rd (2,450 x 1/3 rd)	: Rs. 816.67

	: Rs. 1,633.33

Annual Income (1,633 x 12)	: Rs. 19,599.96
Multiplier - 18	
(19,566.96x18)	: Rs.3,52,799.28
	Rs. 3,52,799.28
Loss of Love and affection	Rs. 15,000.00
Funeral and Transport expenses	Rs. 3,000.00
Total	Rs. 3,70,799.28

9. Therefore, the amount of compensation of Rs.50,000/- awarded by the Tribunal is enhanced to Rs.3,70,799.28/-. It is rounded off to Rs.3,71,000/-.

10. It is also noticed that on 03.02.2007 while condoning the delay of 805 days in filing this appeal, this Court in M.P.No.1 of 2007 in CMA SR.No.70796 of 2005 ordered that no interest shall be paid for the aforesaid delay period.

11. The accident is of the year 1991. The claim petition was filed only on 02.12.1999. It was numbered after a considerable delay. Under such circumstances, there shall be no interest for a period prior to three months the actual representation of the claim petition and its numbering. Therefore no interest shall be payable to the appellant for the aforesaid

period. Since the interest has been reduced from 12% to 7.5%, I am inclined to reduce the interest at 7.5%.

12. The 3rd respondent Insurance Company is therefore directed to deposit a sum of Rs.3,21,000/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit except the default period, less any amount deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

13. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn, by filing suitable application before the Tribunal.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KKD

To:-

The Motor Accidents Claims Tribunal,
Additional District Court,
(Fast Track Court No.2)
Gopichettipalayam.

+1cc to Mr.T.Saravanan, Advocate, S.R.No.36376
+1cc to Mr.C.Ramesh Babu, Advocate, S.R.No.36411
+1cc to M/s.R.Sreevidhya, Advocate, S.R.No.36819

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PPA(CO)
TE (22/04/2021)

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