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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3469 of 2010
(Through Video Conferencing)

1.K.Dhanalakshmi
2.K.Selvam (Insane)
3.S.Senthilvadiwu
4.S.Sujatha
5.K.Gunasundar
(2nd appellant is insane hence
rep.by mother and
next friend 1st appellant)

...Appellants/ Petitioners

vs.

1.A.Rahman

2.M/s.United India Insurance Co., Ltd.,
Branch Office,
No.19, Andiappa Gramani Street,
Chennai 600 013.

3.K.Bhuvaneswari

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (III Fast Track Court) Chennai in M.C.O.P.No.4354 of 2001 dated 24.09.2004.

For Appellants : Ms.Harini
for Mr.K.Srinivasan
For R2 : Mr.M.J.Vijayaraghavan
R1 & 3 Exparte

J U D G M E N T

The appellants were the claimants. They are aggrieved by the impugned Judgment and Decree dated 24.09.2004 passed by the Motor Accident Claims Tribunal, (Additional District Judge) III Fast Track Court, Chennai in M.C.O.P.No.4334 of 2001.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,73,400/- together with interest at 7.5% from the date of filing of the claim petition till the date of



3. The facts of the case are that on 12.03.2001 at about 19.00 hours when the deceased was riding in a bicycle, a lorry bearing Reg.No.TN 04 A 4239 belonging to the 1st respondent and insured with the third respondent, driven by the driver 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.

5. That apart, it is submitted that the Tribunal erred in considering the income of the deceased at Rs.1,800 per month is very meager and therefore the only earning a sum of Rs.60/- per day. The Tribunal ought to have fixed the income of the deceased as Rs.10,000/- for awarding the compensation.

7. He further submits that the Tribunal correctly deducted 1/3rd from the income of the deceased towards personal expenses as all the appellants have filed the case as dependents of the deceased Krishnaraj.

9. The deceased was aged about 54 years and therefore as per the decision of the Hon'ble Supreme Court reported in Sarla Verma vs. Delhi Transport Corporation, 2009 (2) TNMAC 1 SC, the



correct multiplier would be adopted 11. The Hon'ble Supreme Court clarified the claimants would be entitled to enhance the compensation on account of future prospects of the deceased husband. Therefore, the appellants are entitled for enhancement of compensation 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, 10% is to be added towards future prospects.

10. Considering the fact that the deceased was aged about 54 years and other dependents viz., appellants 2 to 5 are 26 years above. I am of the view that it can be sufficiently assumed that all are having independent income and only depending of the appellant at best would be the 1st appellant w/o. Krishnaraj at the time of filing of the claim petition. Be that as it may, I am of the view that it would be fair to deduct 1/3rd income towards personal expenses of the deceased for appropriate computation of the compensation.

11. It is noticed that this appeal in SR was filed before this Court on 01.12.2005. However, the delay was condoned in 2010, this appeal was numbered in 2006.

12. 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. 5,000	
Add: Future prospects @10% : Rs. 500	

: Rs. 5,500	
Loss of income for 12 months (Rs.5,500x12) : Rs.66,000	
Less: 1/3 rd income of the deceased (Rs,66,000x1/3) : Rs.44,000	
Multiplier 11 (Rs.44,000x11) : Rs.4,84,000	Rs.4,84,000
Loss of consortium to the 1 st appellant	Rs. 30,000
Loss of love and affection (Rs.20,000 x 2)	Rs. 40,000
Funeral expenses	Rs. 5,000
Total	Rs.5,59,000 rounded off to Rs. 5,60,000/-



13. On the enhanced amount of compensation, the 1st appellant/1st claimant shall be paid a sum of Rs.,3,10,000/- together with interest thereon and the 2nd to 5th appellants/2nd to 5th claimants and the 3rd respondent, the estranged daughter of the deceased Krishnaraj are entitled to a sum of Rs.50,000/- each together with interest thereon.

14. In the cause title, it is mentioned that the 2nd appellant is mentally challenged person and he depends upon the 1st appellant. Therefore, I direct the share of the 2nd appellant be paid to the 1st appellant for taking care of the interest of the 2nd appellant. Balance amount of Rs.2,00,000/- shall be paid to the 3rd to 5th appellants and to the 3rd respondent, the estranged daughter of the deceased equally. Thus, the compensation stands apportioned as follows:

1st and 2nd appellants - Rs.3,60,000 (Rs.3,10,000 + 50,000)
3rd to 5th appellants & 3rd respondent - Rs.2,00,000
(Rs.50,000/- each)

15. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.5,60,000/- 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.

16. On such deposits, the 3rd to 5th appellants & 3rd respondent are permitted to withdraw their respective share. The 1st appellant-mother is permitted to withdraw a sum of Rs.3,60,000/-, less any amount already withdrawn, by filing suitable applications before the Tribunal.

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

Sd/-
Assistant Registrar(CO)
dt:23.03.2021

//True Copy//

Sub Assistant Registrar

kkd

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

The Motor Accidents Claims Tribunal,
(III Fast Track Court)
Chennai

Copy to :

The Section Officer,
VR Section,
High Court,
Madras - 104.

C.M.A.No.3469 of 2010

CA(CO)
RGA(10/08/2021)