

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1643 of 2013

- 1.Vahida
- 2.Parven
- 3.Rhiana
- 4.Subhana
- 5.Jahirrussain

..Appellants/ Petitioners

Vs.

- 1.Sankar Ganesan.P
- 2.The New India Assurance Company Limited,
No.45, 5th floor,
Moore Street,
Chennai-600 001.

..Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.09.2010 made in M.A.C.T.O.P.No.450 of 2007 on the file of Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants's : Mrs.Subadra for
M.Malar

For R1 : Ex-parte
For R2 : Mr.J.Michael Visuvasam

J U D G M E N T

The appellants are the claimants in M.A.C.T.O.P.No.450 of 2007 on the file of the Motor Accident Claims Tribunal/Chief Judge, Court of Small Causes, Chennai. They filed the claim petition under Section 173 of the Motor Vehicles Act, 1988 seeking compensation of Rs.6,00,000/- for the death of one Noornisa, who is the mother of the appellant herein in a road accident that took place on 16.07.2006.

2. The case of the claimants in nutshell is as follows:

On 16.07.2006 at about 05.45 p.m., the deceased was walking along the road from west to east direction at GST

road, Urapakkam school bus stop. At that time, the first respondent's Maruti Omni Van bearing Regn.No.TN-10-F-3386 was driven by its driver in a rash and negligent manner from Chengalpattu to Tambaram and dashed against the deceased, due to which, the deceased sustained fatal injuries and died on the same day.

3. According to the claimants, the accident took place due to the rash and negligent driving by the driver of the Maruti Omni Van belonging to the first respondent and insured with the second respondent. Hence, they are liable to pay compensation.

4. The learned Chief Judge, Court of Small Causes / Motor Accident Claims Tribunal, Chennai, after analysing the evidence on record, awarded a compensation of Rs.4,80,000/- together with interest at the rate of 7.5% per annum to the claimants. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mrs.Subadra, learned counsel appearing for the appellant and Mr.J.Michael Visuvasam, learned counsel for the second respondent and perused the materials available on record.

6. In the claim petition, it is contended that the deceased was working as a tailor, earning a sum of Rs.5,000/- per month. In the absence of income proof, the Tribunal fixed the monthly income of the deceased as Rs.4,500/-. It is pertinent to point out that the accident took place in the year 2006. Hence, this Court is of the opinion that fixing a sum of Rs.4,500/- as notional monthly income of the deceased would meet the ends of justice. Since there are five dependents, $\frac{1}{4}$ of the deceased's income should be deducted towards her personal expenses. The proper multiplier to be adopted in the instant case is 13, as per the decision rendered by the Hon'ble Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

$$\begin{aligned}\text{Loss of dependency} &= \text{Rs.4,500/-} \times 12 \times 13 \times \frac{3}{4} \\ &= \text{Rs.5,26,500/-}\end{aligned}$$

7. Apart from the above said amount, the appellants/claimants are entitled to a sum of Rs.25,000/- each, Rs.5,000/- and Rs.3,000/- towards "loss of love and affection", funeral expenses and "transportation"

respectively, as per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.5,26,500/-
2.	Loss of love and affection	Rs.25,000/-
3.	Funeral expenses	Rs.5,000/-
4.	Transportation	Rs.3,000/-
Total		Rs. 5,59,500/- rounded off to Rs.5,60,000/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.4,80,000/- to Rs.5,60,000/- which would carry interest at the rate of 7.5% per annum.

9. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.4,80,000/- to Rs.5,60,000/-. The appellants/claimants are directed to pay necessary Court fee for the enhanced compensation amount, if any, within a period of six weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee. The respondents are directed to deposit the enhanced compensation amount i.e., Rs.5,60,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.A.C.T.O.P.No.450 of 2007 on the file of the Motor Accident Claims Tribunal / Chief Judge, Court of Small Causes, Chennai, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants/claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. It is made clear that the appellants/claimants shall not be entitled for any interest for the delay period on the amount of Rs.80,000/- enhanced by this Court.

10. In the result, the present Civil Miscellaneous Petition is partly allowed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbn
To

1.The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.

Copy to:
The Section Officer, VR Section, High Court, Madras.

+1cc to M/s.M.Malar , Advocate SR.No. 8532
+1cc to Mr.Micheal viswasam , Advocate SR.No. 8076

C.M.A.No.1643 of 2013

VG I
A.SK(17.02.2021).



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