

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2144 of 2011

(Through Video Conferencing)

1.S.Padma

2.V.Sambandan

... Appellants/Petitioners

Vs.

1. K.Ramaiah

(R1 set exparte in lower court
and hence notice may be dispensed with)

2. The National Insurance Co. Ltd.,
Motor III Party Claims Office,
661, Trunk Road, Poonamallee,
Chennai - 600 002.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.01.2009 made in M.C.O.P.No.72 of 2006, on the file of the Motor Accident Claims Tribunal (Additional District & Sessions Judge) Fast Track Court No.I, Poonamallee.

For appellants : Ms.Y.Jeyanthi for
Mr.J.Mahalingam

For 2nd respondent: Mr.D.Baskaran

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellants-claimants against the impugned Judgment and Decree dated 29.01.2009 passed by the Motor Accident Claims Tribunal (Addl.District & Sessions Judge, Fast Track Court No.I) Poonamallee in M.C.O.P.No.72 of 2006.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,45,000/- as compensation together with interest at 7.5% per annum from the date of numbering of the

claim petition till the date of payment, to the appellants/claimants as against the amount of Rs.15,00,000/- claimed by appellants/claimants.

3. Aggrieved by the compensation awarded, the appellants/claimants seek for enhancement of compensation in this appeal.

4. The deceased Senthil met with an accident on 03.09.2005 at about 15.45 hrs. when he was driving Scorpio Car bearing Reg.No.TN 05 Q 2598. It was stated that the insured vehicle viz, Toyota Qualis Car bearing Reg.No.TN09 V 9393 belonging to the 1st respondent insured with the 2nd respondent-Insurance Company was driven in a rash and negligent manner and hit the said Scorpio Car. It was stated that Scorpio Car was proceeding from south to north at East Coast road, when the driver of the Toyota Qualis Car came from the opposite direction and hit the Scorpio Car, as a result of which, the deceased died on the spot.

5. Under these circumstances, a claim petition was filed for compensation by the appellants/claimants before the Tribunal. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation of Rs.1,45,000/- and interest as compensation.

6. The appellants are the parents of the deceased Senthil and aged about 20 years who was studying III year Engineering student in Sathyabama College, Chennai. There is no dispute regarding the accident and the involvement of the first respondent vehicle. The Tribunal has calculated the aforesaid compensation of Rs.1,45,000/- based on the notional income of the deceased as Rs.15,000/- p.a.

7. It is the case of the learned counsel for the appellants that the Tribunal has considered a very low notional income of the deceased as Rs.15,000/- p.a. He therefore submits that the Tribunal ought to have considered the notional income of the deceased as Rs.10,000/- p.m., considering the fact that the deceased was III Year Engineering student and if he was alive, he would have completed the course in the year 2006 and started earning and contributing to his family.

8. Per contra, the learned counsel for the 2nd respondent-Insurance Company submits that though the Tribunal has considered the notional income of the deceased at Rs.15,000/- p.a. was not meagre, He further submits that the accident took place in the year 2005 and therefore the said notional income was reasonable and therefore this civil miscellaneous appeal is liable to be dismissed.

9. I have considered the arguments advanced by the learned counsel for both sides. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

10. It is noticed that this Court has considered the notional income of the deceased as Rs.15,000/- p.a. and other conventional heads are added substantial amount of compensation is awarded.

11. In Syed Sadiq Vs. United India Insurance Co.Ltd., (2014) 2 SCC 735, the Hon'ble Supreme Court fixed the notional income of a vegetable vendor as Rs.6,500/- per month. In V.Mekala Vs. Malathi and another, (2014) 11 SCC 178, the Hon'ble Supreme Court, while awarding compensation to a student for the injuries, fixed the income as Rs.10,000/- per month .

12. Since the deceased was an undergraduate pursuing the Engineering course and considering the evidence on record that the deceased was on the threshold of completing his course, I am of the view that the Tribunal erred in restricting the notional income of the deceased as Rs.15,000/- p.a.in the impugned order for awarding the compensation.

13. In my view, the Tribunal ought to have considered the notional income of the deceased as Rs.7,500/- p.m. considering the fact that the accident took place in the year 2005. Considering the same, the notional income of the deceased as Rs.7,500/- p.m, the compensation to be awarded is to be modified.

14. The Tribunal while awarding the compensation has wrongly deducted only 1/3rd of the income towards the personal expenses of the deceased. Since the deceased was a bachelor, the Tribunal ought to have deducted 50% towards personal expenses of the deceased as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 121.

15. I am also of the view that the Tribunal ought to have applied the correct multiplier, i.e. 18, considering the age of the deceased was 20 years at the time of his death.

16. As per the said decision, the correct multiplier was 18 and not 13. The age of the mother is not relevant. Therefore, the amount awarded towards loss of income is to be recomputed. Similarly, the appellants are entitled for 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, and further amounts as per the decision of the Hon'ble

Supreme Court in Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130. Thus, the total compensation to be awarded is to be re-quantified as follows:

Heads	Award of the Tribunal	Re-quantified amount by this Court	Status (Enhanced or Reduced or Confirmed or granted)
Loss of Dependency	*Rs.1,30,000/-	# Rs.11,34,000/-	Enhanced
Loss of love and affection	Rs. 10,000/-	##Rs. 80,000/-	Enhanced
Funeral Expenses	Rs. 5,000/-	Rs. 15,000/-	Enhanced
Loss of estate	-	Rs. 15,000/-	Granted
Total	*Rs.1,45,000/-	*Rs.12,44,000/-	Enhanced by another sum of Rs.10,99,000/-

* Rs.15,000 - $\frac{1}{3}^{\text{rd}} \times 13$ = Rs.1,30,000/- by the Tribunal
 # Rs.7,500 + 40% x 12 - $\frac{1}{2}^{\text{nd}} \times 18$ = Rs.11,34,000/- by this Court

(40,000 x 2 = 80,000) as per the decision of the Hon'ble Supreme Court in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130.

*Therefore, the amount of compensation of Rs.1,45,000/- awarded by the Tribunal is enhanced to Rs.12,44,000/- by this Court and is rounded off to Rs.12,45,000/-

17. The 2nd respondent Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.11,00,000/- (1,45,000 - 12,45,000) together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

18. If the 2nd respondent-Insurance Company has not deposited the amount of compensation awarded by the Tribunal same is also directed to deposit the same together with interest

and cost if any as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

19. The appellants are entitled to equal, since in the total compensation of Rs.12,45,000/- together with interest at 7.5% per annum, by filing suitable application. The appellants/claimants are also permitted to withdraw the aforesaid amount of compensation by filing appropriate application before the Tribunal together with interest, less any amount already withdrawn by them.

20. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-
Assistant Registrar(CS II)

//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,
(Additional District & Sessions Judge)
Fast Track Court No.I, Poonamallee.

C.M.A.No.2144 of 2011

KJ(CO)
CSR 23.04.2021

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