

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2020

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

C.M.A.NO.1180 OF 2016

P.Sathya .. Appellant/Petitioner

/versus/

1.J.Prabakar
(Remained exparte before the Trial court)

2.Reliance General Insurance Co. Limited,
Rai's Towers, 2nd floor, 2nd Avenue,
Anna Nagar, Chennai-40. .. Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.01.2016 MACT O.P.No.872 of 2014 on the file of the Chief Judge Small Causes Courts, (Motor Accident Claims Tribunal) Chennai.

For Appellant :Mr.N.M.Muthurajan

For Respondent No.2 :Mr.S.Arunkumar

For Respondent No.1 :Exparte before the Tribunal

JUDGMENT

(This case has been heard through Vedio Conferencing)

This appeal is filed seeking enhancement of compensation being aggrieved by the award passed by the Tribunal.

2.On 12.12.2013 Vadivammal, aged 53 years, working as a Sweeper in a private firm met with a road accident and died during the course of treatment at Government Hospital, Royapetah. The owner of the offending vehicle viz., Tempo Traveler bearing Reg.No.TN-22-CV-6629 and the insurance company were made respondents in the claim petition and a sum of Rs.10

lakhs was sought as compensation by her son, who was sole surviving heir of the deceased. The claim was opposed by the Insurance Company on the ground that the place, date and time of the accident not admitted. The occupation and income of the deceased person denied and the accident occurred solely due to the negligence of the deceased.

3.The Tribunal, after considering the material evidence placed before it viz., ocular evidence of PW-1 and PW-2 and documentary evidence Exs.P1 to P8 has applied the multiplier '11' fixing the age of the deceased as 53 years. Considering the pay slips of the deceased Ex.P7 (series) income of the deceased was fixed as Rs.5850/- and adding 50% towards future prospects and deducting 50% for personal expenses, a sum of Rs.4,44,048/- was fixed as loss of pecuniary benefits. In addition, a sum of Rs.50,000/- was awarded for loss of love and affection, a sum of Rs.25,000/- was awarded for funeral expenses and a sum of Rs. 5,000/- was awarded for transport expenses. A total sum of Rs.5,24,048/- was awarded as compensation with interest at the rate of 7.5% p.a., from the date of petition till the date of realisation.

4.In this appeal, it is canvassed before this court that the Tribunal ought to have deducted 1/3rd for personal expenses and balance for the contribution of the family ought to have awarded. Another Rs.50,000/- for loss of expectation of life and Rs.25,000/- for pain and suffering incurred by the deceased from the date of accident till the time of death should have been awarded.

5.However, the learned counsel for the Insurance Company would submit that the Tribunal has erroneously believed the pay slip and has fixed the income of the deceased as Rs.5,850/- per month. Further, she being employed as a Sweeper in a private company, the amount awarded towards future prospects after crossing the age of 53 years is highly excessive. The learned counsel would also submit that though the award passed by the Tribunal was excessive and against the settled norms, considering the plight of the claimant, they have not preferred any appeal against the excessive award.

6.On going through the records, this Court finds that the claimant who is the son of the deceased, is the sole dependent. The husband of the accident victim has pre-deceased her. Therefore, this Court do not find any error in fixing the personal expenditure of the deceased which is consonance to the Supreme court guidelines. Therefore, I do not find any material error in the Tribunal award and hence, this appeal is liable to be dismissed.

7.In the result, this Civil Miscellaneous Appeal is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Small Causes Courts,
(Motor Accident Claims Tribunal) Chennai.

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

+lcc to Mr.S.Arunkumar, Advocate, S.R.No.26934

+lcc to Mr.N.M.Muthurajan, Advocate, S.R.No.26678

C.M.A.No.1180 of 2016

GP(CO)
CB(20/04/2021)



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