

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated:01.09.2020
CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1337 of 2016

1.U.Ramvignesh

2.U.Rajalakshmi .. Appellants/ Petitioners

/versus/

1.S.Parthiban

2.ICICI Lombard General Insurance Co.Ltd.,
Chottabhai Centre,
2nd and 3rd Floors,
140, Nungambakkam High Road,
Chennai 600 034. ... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 22.01.2016 M.A.C.T.O.P.No.1222 of 2010 on the file of the Special Sub Judge-I, (Motor Accidents Claims Tribunal), Chennai.

For Appellants :Mr.R.Kalai Arasan

For R2 :Mrs.R.Sree Vidhya

For R1 :No appearance

सत्यमेव जयते
J U D G M E N T

(Heard through Video Conference)

Heard the learned counsel appearing for the appellants and the 2nd respondent/Insurance company.

2.The claimants not satisfied with the quantum of compensation awarded the Tribunal through this appeal seek enhanced compensation.

3.The case of the claimants is that Udayakumar a cook in a Hotel at Chennai, in an accident occurred on 24.12.2009, while

he was crossing the road near Muniyandi Villas Hotel, Mattukuppam, Rajiv Gandhi Sala sustained head injury and multiple injuries all over his body. The cause of the accident is attributed to the rider of motor cycle bearing Reg.No.TN 22 BD 7290 owned by the first respondent and insured under the 2nd respondent.

4.The liability was denied by the Insurance company attributing the negligence on the part of the deceased alleging that he was under the influence of alcohol and he did not cross the road consciously and carefully. Further, the claim of income and dependency were also denied.

5.The Tribunal, on considering the material placed before it, had fixed the income of the deceased as Rs.3,000/- notionally. Adding 30% towards future prospects and applying multiplier '13' for his age awarded a sum of Rs.4,05,600/- towards loss of dependency; Rs.2,00,000/- for loss of love and affection and Rs.15,000/- for funeral expenses totally Rs.6,20,600/- with interest at the rate of 7.5% p.a.

6.The claimants have preferred the appeal on the ground that the Tribunal has failed to take note of the fact that the deceased was earning Rs.7,500/-per month. Fixation of Rs.6,000/- should have been the right foundation and also sought for raise in the percentage of future prospects and some compensation for the loss of expectation of life.

7.Regarding the earning capacity and income of the deceased person, this Court finds no evidence to substantiate their claim. Six exhibits marked by the claimants are not in connection with the earning capacity of the deceased. In such circumstances, in the year 2009, a person with no specific skill could not have earned more than Rs.3,000/-. Hence, in the absence of evidence, the Tribunal has fixed the income of the deceased at Rs.3,000/-notionally and has added 30% for future prospects.

8.The learned counsel for the appellants as well as the respondent/insurance company pointing out the standardisation of compensation by the Hon'ble Supreme Court in Pranay Sethi Case require the Court to apply the said principle for arriving at just and fair compensation by taking note that the deceased monthly income as Rs.4,500/- notionally, add 25% for future prospects and deducted 1/3 for his personal expenditure with multiplier '13'.

9.In the light of the above submission, the award of the Tribunal is modified as below:

Loss of financial dependency (Rs.4500/- +Rs.1125/- (25%) - 1/3x12 x 13)	:Rs.5,85,000-00
Loss of love and affection (each Rs.40,000/-)	:Rs. 80,000-00
Funeral expenses	:Rs. 15,000-00
Loss of estate	:Rs. 15,000-00

Total	:Rs.6,95,000-00

6.The 2nd respondent/insurance company is directed to deposit the modified award amount of Rs.6,95,000-00 with interest at the rate of 7.5% pa from the date of petition, till the date of realisation. within a period of 8 weeks from the date of receipt of a copy of this order. The award amount shall be apportioned between the claimants equally. The claimants shall be permitted to withdraw the money on filing appropriate petition before the Tribunal.

7. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Special Sub Judge-I, Chennai.

C.M.A.No.1337 of 2016

A.SK(05.01.2021)

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