

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1320 of 2020

1.Kamsala
W/o.Duraikannu

2.V.Soundarya
W/o.Velmurugan Appellants/Petitioners

Vs.

1.U.Sivaprakasam
S/o.K.Ulaganatham

2.The Divisional Manager,
United India Insurance Co. Ltd.,
Do.No.13A, Nethaji Road,
Cuddalore - 607 001. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.01.2016 passed in M.C.O.P.No.3075 of 2014 on the file of Motor Accident Claims Tribunal, Principal District Judge, Cuddalore.

For Appellants : Ms.Ramya V.Rao

For Respondent : Mr.D.Bhaskaran [R2]

सत्यमेव जयते

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]
[Heard through Video Conference]

Not being satisfied with the quantum of compensation awarded by the tribunal in its judgment and decree dated 25.01.2016 passed in M.C.O.P.No.3075 of 2014 on the file of Motor Accident Claims Tribunal, Principal District Court, Cuddalore, appellants/claimants have filed the present appeal.

2. The brief facts of the case is as follows:
Appellants/claimants are mother and sister of the deceased

Gurunathan. On 04.07.2014 at about 05.00 p.m., while the deceased was proceeding in his two wheeler bearing Registration No.TN-31-AU-2878 in the extreme left side of Chennai to Kumbakonam Salai, near Sethiathope new over bridge, a Tata Ace Goods Vehicle bearing Registration No.TN-31-AD-1923, belonging to first respondent and insured with the second respondent, came in a rash and negligent manner and dashed against the two-wheeler, owing to which the deceased sustained grievous injuries and despite treatment, he died on 06.07.2014. Appellants/claimants filed a claim petition seeking compensation in a sum of Rs.30,00,000/- for the death of the deceased against the respondents. The said claim was resisted by second respondent insurance company by filing a detailed counter.

3. To prove their claim, on the side of appellants/claimants, 3 witnesses were examined and 14 documents were marked. On the side of respondent transport corporation, none were examined and no exhibits were marked. On appreciation of materials, the Tribunal found that the accident had occurred owing to the rash and negligent driving of the goods vehicle and awarded compensation in a sum of Rs.11,45,000/- The break-up details of the award is as follows:

S1. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency [10000 - $\frac{1}{2}$ * 12 * 18]	10,80,000 /-
2.	Loss of love and affection	40,000/-
3.	Transport and funeral expenses	25,000/-
	Total	11,45,000 /-

The Tribunal directed the second respondent insurance company, being the insurer of the offending vehicle, to pay the compensation along with interest at 8 % p.a. from the date of petition till the date of deposit. Not being satisfied with the quantum of compensation, appellants have filed the present appeal.

4. Learned counsel appearing for appellants submits that the deceased was a final year student of B.Tech (IT) and he was also doing part time job. Considering the fact that the accident took place in the year 2014 and taking into account the qualification of the deceased, the Tribunal ought to have fixed a sum of Rs.20,000/- as the monthly income of the deceased. However, the tribunal has fixed only a sum of Rs.10,000/- as the monthly income of the deceased, which has resulted in awarding an inadequate compensation under the head 'loss of dependency'. Submitting as above, learned counsel prays this Court to fix the monthly income of the deceased at Rs.20,000/- and thereby,

enhance the compensation.

5. Per contra, learned counsel appearing for second respondent insurance company submits that considering the qualification of the deceased only, the tribunal has fixed a sum of Rs.10,000/- as the monthly income, which cannot be found fault with. Submitting as above, learned counsel prays for dismissal of the appeal.

6. This Court has considered the rival submissions. Perused the materials on record. Since the quantum of compensation alone is challenged, this Court is not dealing with the aspect of 'rash and negligent'.

7. Considering the fact that the accident took place in the year 2014 as also considering the qualification of the deceased and the cost of living at the time of accident, this Court is of the view that a sum of Rs.15,000/- could be fixed as the monthly income of the deceased to arrive at a just and proper compensation. Accordingly, Rs.15,000/- is fixed as the monthly income of the deceased. The deceased was aged 21 at the time of accident and hence, 40% has to be added towards future prospects. As the deceased was a batchelor, 1/2 has to be deducted towards personal expenses of the deceased. If it is so done, the monthly income would be Rs.10,500/- [15000 + 6000 - 10500] and the annual income would be Rs.1,26,000/- [10500 * 12]. The proper multiplier to be applied in this case is '18'. If it is so applied, the compensation payable under the head 'loss of dependency' would be Rs.22,68,000/-. Further, only a sum of Rs.40,000/- is awarded under the head 'loss of love and affection' and hence, the same is enhanced to Rs.80,000/- (40000 * 2). Similarly, this Court finds that no sum has been awarded under the head 'loss of estate' and hence, a sum of Rs.15,000/- is awarded under such head.

8. Accordingly, the modified compensation payable is as follows:

Sl. No.	Compensation awarded under the head	Amount awarded by tribunal	Amount awarded by this Court
		(in Rs.)	
1.	Loss of dependency	10,80,000/- [10000 - ½ * 12 * 18]	22,68,000/- [(15000 + 40% - ½) * 12 * 18]
2.	Loss of love and affection	40,000/- (20000 * 2)	80,000/- (40000 * 2)
3.	Transport and funeral expenses	25,000/-	25,000/-

Sl. No.	Compensation awarded under the head	Amount awarded by tribunal	Amount awarded by this Court
		(in Rs.)	
4.	Loss of estate	-	15,000/-
	Total	11,45,000/-	23,88,000/-

In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.11,45,000/- awarded by the tribunal is hereby enhanced to Rs.23,88,000/- (Rupees Twenty Three Lakhs and Eighty Eight Thousand only). Out of the award amount, first appellant/mother of the deceased is entitled to a sum of Rs.14,88,000/- and second appellant/sister of the deceased is entitled to a sum of Rs.9,00,000/-. Second respondent insurance company is directed to deposit the amount of Rs.23,88,000/- together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. On such deposit, appellants/claimants are entitled to withdraw their respective shares along with proportionate interest on due application. No costs. 1

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gm

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Cuddalore.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

C.M.A.No.1320 of 2020

SAI (CO)
GN(22/09/2020)