

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2844 of 2013

1.G.Saravanan

2.G.Vijayakumar

.. Appellants/2nd & 3rd Petitioners

Vs.

1.Mrs.R.Florence,

2.M/s.United India Insurance Co.Ltd.,

Motor Accident third party claim office,

No.38, Anna Salai, Chennai.

..Respondents/ Respondents

(Notice to the first respondent herein may be dispensed with, since the first respondent remained ex-parte in the claim petition before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.10.2009 made in M.C.O.P.No.429 of 2003 on the file of Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.I, Chennai.

For Appellant : Mr.P.M.Duraiswamy

For R1 : Ex-parte

For R2 : Mrs.K.Saraswathi for
Mr.C.R.Krishnamoorthy

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.429 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court-, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death of one Govindaswamy, in a road accident that took place on 26.11.2002.

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

On 26.11.2002 at about 05.00 P.M., when the deceased was riding his Suzuki Motorcycle bearing Registration No.TN-05-C-5283 with his friend Lakshminarayanan on 100 ft. Road, near

Koyambedu, Jai Nagar Junction from south to north, a Mahindra Van bearing Registration No.TN-04-X-8713 came from behind in the same direction in a rash and negligent manner and hit against the deceased's vehicle. Due to the said accident, the deceased received severe head injury and was immediately taken to Government General Hospital and admitted as inpatient at about 05.50 P.M. Despite the treatment, he succumbed to death at about 07.30 P.M.

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

4. The learned Additional District Judge, Fast Track Court No.I / Motor Accident Claims Tribunal, Chennai, after analysing the evidence on record, awarded a compensation of Rs.4,04,500/- 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 Mr.P.M.Duraiswamy, learned counsel for the appellants and Mrs.K.Saraswathi, learned counsel appearing 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 an agriculturalist and doing business of Real Estate and Construction and earning a sum of Rs.10,000/- per month. In the absence of income proof, the Tribunal fixed the monthly income of the deceased as Rs.6,000/-. For the purpose of calculating compensation for fatal accident cases, the amount of compensation so arrived, as in the case of fatal claims, shall be reduced by $\frac{1}{3}^{\text{rd}}$ in consideration of the expenses, which the victim would have incurred towards maintaining himself, when he was alive. Considering the facts and circumstances of the case, the Trial Court has fixed 8 as the multiplier and awarded Rs.3,84,000/- towards the "Loss of Income" (Rs.4,000 X 12 X 8). This Court is inclined to enhance the amount Rs.5,52,000/- (Rs.5,750 X 12 X 8). The Tribunal has awarded a sum of Rs.1,500/- towards "Transportation" and the same is hereby enhanced to Rs.10,000/-. The Trial Court has awarded a sum of Rs.8,000/- towards "Funeral Expenses" and the same is hereby enhanced to Rs.10,000/-. The Tribunal has awarded a sum of Rs.10,000/- under the head "loss of love and affection", "Mental Agony" and "Pain and Sufferings" and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.1,000/- towards the "damages to clothes and articles", which stands confirmed

herein. 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.5,52,400/-
2.	Loss of love and affection, Mental agony and pain & sufferings	Rs.10,000/-
3.	Funeral expenses	Rs.10,000/-
4.	Transportation	Rs.10,000/-
5.	Damages to clothes and articles	Rs.1,000/-
Total		Rs. 5,83,400/-

7. Thus, the compensation awarded by the Tribunal is enhanced from Rs.4,04,500/- to Rs.5,83,400/- which would carry interest at the rate of 6% per annum.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.4,04,500/- to Rs.5,83,400/-.

(iii) The appellants are directed to pay difference of 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.

(iv) The respondents are directed to deposit the enhanced compensation amount i.e., Rs.5,83,400/- (less the amount already deposited) together with interest at the rate of 6% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.429 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Chennai, within a period of six weeks from the date of receipt of a copy of this order.

(v) 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.

(vi) It is made clear that the appellants/claimants shall not be entitled for any interest for the delay period on the amount of Rs.1,78,900/- enhanced by this Court .

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sbn
To

1.The Additional District Judge,
Motor Accident Claims Tribunal
Chennai.

+1cc to Mr.C.R.Krishnamoorthy , Advocate SR.No. 12334

+1cc to Mr.P.M.Duraisamy, Advocate SR.No. 12275

C.M.A.No.2844 of 2013

A.SK(28.04.2021)



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