



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.540 of 2018

1. Rajendran
2. Vijaya
3. Hema @Hemalatha
4. Manikandan

... Appellants/Petitioners

vs.

1. Rajeshkanna
2. The New India Assurance Co., Ltd.,
2nd Floor, Sedhu Krishna Trade Centre,
133/31-1, Trichy Main Road,
Guhai, Salem - 636 006.

... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.10.2017 made in M.C.O.P.No.1495/2015 on the file of the Motor Accident Claims Tribunal, I Additional District-Cum-Sessions Judge, Salem.

For Appellants : Mr.C.Paraneedharan

For R1 : No appearance

For R2 : Mr.R.Sivakumar

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.15,43,000/- towards compensation for the death of one Sankar, who died in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 10.01.2015, at about 10.45 pm, the deceased Sankar was riding his motorcycle bearing Registration No.TN 32 L 3044 from Attur to Manjini Road, near Vivekanandha School. At that time, the Tractor bearing



Registration No.TN 49 AV 1613 belonging to the first respondent and insured with the second respondent Insurance Company, was parked on the left side of the road without switching on the parking lights. Since the place was dark, the accident occurred due to hitting of the two-wheeler on the tractor. Due to the said impact, the deceased sustained grievous injuries and he later on, died in the hospital. The father, mother, sister and brother of the deceased, being the surviving legal heirs, filed a claim petition before the Tribunal, seeking compensation of Rs.25,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.15,43,000/- with interest at the rate of 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum of compensation so awarded, the appellants are before this Court with the present appeal seeking enhancement of the same.

3.The learned counsel for the appellants has submitted that the Tribunal has erred in awarding a meagre sum of Rs.15,43,000/- as against the claim of Rs.25,00,000/- made by the appellants / claimants. The learned counsel further submitted that when the deceased was earning Rs.20,000/- through a welding workshop owned by him, the Tribunal has erred in taking his income only at Rs.9,000/- per month. It is also submitted that the amounts awarded towards other heads are on the lower side and hence, the same needs substantial enhancement.

4.Per contra, the learned counsel for the second respondent/ Insurance Company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The father of the deceased was examined as P.W.1, who deposed in his evidence that the deceased was aged about 25 years and was earning Rs.20,000/- per month by working as welder and owner of a welding workshop. To prove the avocation and income of the deceased, the appellants have not filed any documents. In the absence of any material evidence, the Tribunal fixed a sum of Rs.9,000/- per month as the notional income of the deceased, added 50% of the amount towards future prospects and out of the resultant amount, deducted 50% towards personal expenses of the deceased, adopted 18 multiplier and awarded a sum of Rs.14,58,000/- towards loss of income. The accident occurred in the year 2015. Taking note of the year of accident, this Court is of the view that fixing a sum of Rs.10,000/-



towards notional income instead of Rs.9,000/- fixed by the Tribunal, would be proper. Taking into consideration the judgment of the Hon'ble Supreme Court, reported in 2017 (2) TNMAC 609 (SC) (National Insurance Company v. Pranay Sethi & others), this Court is of the view that the appellants are entitled to 40% towards future prospects and not 50% as fixed by the Tribunal. The multiplier of 18 adopted by the Tribunal is correct. Thus, if a sum of Rs.10,000/- is fixed as notional income per month, 40% of the amount is added towards future prospects and 50% is deducted from the resultant amount towards personal expenses of the deceased and 18 multiplier is adopted, the loss of income works out to Rs.15,12,000/- ([Rs.10,000 + 4,000] x 12 x 18 x $\frac{1}{2}$). Accordingly, the compensation awarded by the Tribunal towards loss of dependency stands modified to Rs.15,12,000/-. Further, this Court is of the considered view that the amounts awarded towards other heads are reasonable and justifiable and hence the same are confirmed.

7.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Loss of Income	15,12,000/-
Transport expenses	5,000/-
Funeral expenses	20,000/-
Loss of love and affection (to the appellants 1 & 2 each Rs.20,000/-)	40,000/-
Loss of love and affection (to the appellants 3 & 4 each Rs.10,000/-)	20,000/-
TOTAL....	15,97,000/-

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8.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,43,000/- is hereby enhanced to Rs.15,97,000/- with interest at the rate of 7.5% per annum from the date of petition. No costs. The second respondent/ Insurance Company is directed to deposit the modified amount of compensation, as ordered above, along with interest and costs, after deducting the amount if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective shares as per the proportion apportioned by the the



Tribunal, on making proper application. It is made clear that the appellants/ claimants have to pay the appropriate Court fee, before receiving the awarded amount.

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Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The I Additional District-Cum-Sessions Judge,
Motor Accident Claims Tribunal,
Salem.

2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104. +2 Copies

+1cc to Mr.R.Siva Kumar, Advocate SR.No.29787

C.M.A.No.540 of 2018

NRL (CO)
GMY (30/04/2021)