

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2020
CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN
C.M.A.No.3142 of 2019

1.Murugan
S/o.Veerappa Chetty

2.Valarmathi
W/o.Murugan Appellants/Claimants

vs

1.C.Saikannan
S/o.Chandran

2.The General Manager,
Royal Sundaram Alliance Insurance
Company Limited,
Trichy - 620 001. Respondents/Respondents

(R1 remained exparte before the
Tribunal this presence may be
dispensed with)

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor
Vehicles Act, 1988, against the judgment and decree dated
07.02.2019 passed in M.A.C.T.O.P.No.29 of 2017 on the file of
Motor Accident Claims Tribunal, III Additional District Judge,
Vellore at Tirupattur.

For Appellants : Ms.A.Subadra

For Respondents: Exparte [R1]

Mrs.R.Rathna Thara [R2]

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JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video Conference.

2. Not being satisfied with the quantum of compensation awarded by the Tribunal in and by its judgment and decree dated 07.02.2019 passed in M.A.C.T.O.P.No.29 of 2017 on the file of Motor Accident Claims Tribunal, III Additional District Judge, Vellore, Tirupattur, appellants/claimants have filed the present appeal.

3. The brief facts of the case is as follows:

Appellants/claimants are parents of the deceased Naveen Kumar. On 24.11.2016 at about 10.45 a.m., while the deceased was riding his two-wheeler bearing Registration No.TN-23-BE-0025 on the Veppalampatti Bridge, a Car bearing Registration No.TN-68-Q-7117 came in a rash and negligent manner and dashed against the deceased, as a result of which the deceased sustained grievous injuries. Immediately, the deceased was taken to Government Hospital, Tirupattur and after providing first aid, the deceased was taken to Government Hospital, Chennai. However, the deceased died on the way. First respondent is the owner of the Car and second respondent is the insurer thereof. Appellants/claimants filed a claim petition seeking compensation in a sum of Rs.75,00,000/-.

4. The claim was resisted by second respondent insurance company by filing a detailed counter.

5. To prove the claim, on the side of appellants/claimants 2 witnesses were examined and 14 documents were marked. On the side of second respondent insurance company, none were examined and no exhibits were marked.

6. On appreciation of materials on record, the Tribunal found that the accident had occurred owing to the rash and negligent driving of the Car belonging to first respondent and held that the second respondent insurance company, as insurer of the said vehicle, was liable to pay compensation. The compensation awarded by the Tribunal is as follows:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	9,72,000/-
2.	Future prospects	3,88,800/-
3.	Loss of love and affection	40,000/-
4.	Funeral expenses	15,000/-
5.	Transportation	5,000/-
	Total	14,20,800/-

The said sum was directed to be paid together with interest at 7.5% p.a. from the date of petition till the date of

realization.

7. Learned counsel for appellants/claimants submits that the deceased was a college student. At the time of accident, the deceased was earning a sum of Rs.12,000/- p.m. by doing part time job in photography. However, the Tribunal fixed the monthly income of deceased only at Rs.9,000/- p.m., which has resulted in awarding an inadequate compensation. Considering the date of accident i.e. 24.11.2016 and the qualification of the deceased, the Tribunal ought to have fixed a sum of Rs.12,000/- as the monthly income. Submitting as above, learned counsel prays this Court to fix the monthly income of deceased at Rs.12,000/- and accordingly, re-calculate the compensation awarded under the head 'loss of income'. Learned counsel further submits that the amount awarded under the other heads is also on the lower side and the same requires proper enhancement.

8. Per contra, learned counsel for second respondent insurance company submits that the deceased was only a student. Absolutely, no proof was filed to establish the income of the deceased. In such circumstances, the Tribunal has fixed a reasonable sum of Rs.9,000/- towards monthly income of the deceased. The amount awarded under the other heads is also reasonable. Submitting as above, learned counsel prays this Court to dismiss the appeal.

9. This Court has considered the rival submissions. Perused the materials on record.

10. Considering the fact that the accident had occurred in the year 2016 and the cost of living prevailing at that point of time as also considering the qualification of the deceased, this Court fixes the monthly income of the deceased at Rs.12,000/-. This Court finds that the Tribunal has added a sum of Rs.3,88,800/-towards future prospects. The Supreme Court in the decision in Pranay Sethi and others vs. National Insurance Company Limited [(2017) 16 SCC 680], has held that a certain percentage has to be added towards future prospects with the monthly income based on the age of the deceased. In the present case, the deceased was aged 21 at the time of accident and hence, 40% has to be added towards future prospects. Accordingly, the amount of Rs.3,88,800/- awarded by the Tribunal under the head 'future prospects' is set aside. The compensation payable under the head 'loss of income' is recalculated as follows:

Monthly Income : Rs. 12,000/-

Add: future prospects at 40%
(40% of 12000) : Rs. 4,800/-

Rs. 16,800/-

Annual Income (16800*12) : Rs. 2,01,600/-

Less: Personal expenses (1/2) : Rs. 1,00,800/-

Rs. 1,00,800/-

Mulltiplier : 18

Pecuniary Loss : Rs.18,14,400/-

Further, this Court finds that only a sum of Rs.40,000/- was awarded towards loss and affection and hence, the same is enhanced to Rs.80,000/- (40,000/- each). This Court also finds that no sum has been awarded towards loss of estate and hence, a sum of Rs.15,000/- is awarded under such head. The amount awarded under the other heads is hereby confirmed.

11. Accordingly, the modified compensation payable would be:

Sl. No.	Compensation awarded under the head	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	9,72,000/- [(9000-4500) *12*18]	18,14,400/- [(12000+40%) *12*18 - 1/2]
2.	Future prospects	3,88,800/-	-
3.	Loss of love and affection	40,000/-	80,000/-
4.	Funeral expenses	15,000/-	15,000/-
5.	Loss of estate	-	15,000/-
5.	Transportation	5,000/-	5,000/-
	Total	14,20,800/-	19,29,400/-

In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation awarded by the Tribunal in a sum of Rs.14,20,800/- is hereby enhanced to Rs.19,29,400/- [Rupees Nineteen Lakhs Twenty Nine Thousand and Four Hundred only]. Second respondent insurance company is directed to deposit the

modified compensation of Rs.19,29,400/-, less the amount, if any, already deposited, 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 share, as apportioned by Tribunal, on due application. In all other aspects, the award of the Tribunal is hereby confirmed. No costs.

Sd/-

Assistant Registrar (CS II)

/true copy/

Sub Asst. Registrar

gm

To
The III Additional District Judge,
Motor Accident Claims Tribunal,
Vellore at Tirupattur.

Copy to

The Section officer
VR Section,
High Court, Madras

+1 cc to M/s.M.Malar Advocate sr41470

C.M.A.No.3142 of 2019

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