

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.28.09.2020
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.867 of 2014

1.Dr.C.Rajamanickam
2.R.Saraswathi

... Appellants/Petitioners

vs.

1.Dr.K.Ravinder Reddy
2.The United India Insurance Co., Ltd.,
38, Anna Salai,
Chennai - 2.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 07.09.2001 and made in MACT OP.No.1063 of 1997 on the file of the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court), Chennai

For Appellants : Mrs.Ramya V.Rao for
M/s.A.N.Viswanatha Rao
For Respondents : R1-Exparte
Mrs.R.Sree Vidhya-R2

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 07.09.2001 passed by the Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes, Chennai) in MCOP.No.1063 of 1997.

2. A person by name R.R.Palani died on 15.11.1996 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The Appellants/claimants who are the parents of the deceased R.R.Palani have preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.1063 of 1997 seeking compensation for the death of their son.

3. The Motor Accident Claims Tribunal under the impugned award directed the respondents to pay the Appellants/claimants a

compensation of Rs.7,06,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pecuniary loss	6,66,000/- (5500 - 1/3 = 3700 x 12 x 17)
Loss of love and affection and funeral expense	15,000/-
Transportation charges	10,000/-
Loss of estate	15,000/-
Total	7,06,000/-

4. The Appellants /claimants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award have preferred this Appeal seeking enhancement.

5. Though this Appeal was filed in time, there was an inordinate delay of 2,816 days in representation and the said delay was condoned by this Court on 27.02.2014. In the said condone delay order, this Court has made it clear that the Appellants/claimants are not entitled for any interest for the period of delay of 2816 days.

6. Heard Mrs.Ramya V.Rao learned counsel representing Mr.A.N.Viswanatha Rao, learned counsel for the Appellants and Mrs.R.Sree Vidhya, learned counsel for the second respondent. The first respondent has remained *exparte* both before the Tribunal as well as this Court.

7. Before the Tribunal, the Appellants/claimants have filed 20 documents which were marked as Ex.P1 to Ex.P20 and four witnesses were examined on their side namely the father of the deceased, the first Appellant herein as PW1, the mother of the deceased, the second Appellant herein as PW2, A.Pushparaj, AD SI, Vepery, Chennai - 7 as PW3 and Mr.Abdul Kalam, an eyewitness to the accident as PW4. On the side of the respondents, neither any document was filed nor any witness examined before the Tribunal.

8. In the claim petition, the Appellants/claimants had pleaded that the deceased R.R.Palani was aged 20 years and was a student studying first year, M.B.B.S at Sri Ramachandra Medical College & Research Centre, Porur, Chennai - 116 at the time of

the accident. In the claim petition, the Appellants/claimants had claimed a compensation of Rs.20,00,000/- for the death of R.R.Palani.

9. The Tribunal under the impugned award assessed the notional monthly income of the deceased at Rs.5,500/-. The Tribunal has given due consideration to the income tax returns filed by the Appellants/claimants which were marked as Ex.P15, the income tax return for the first Appellant, Ex.P16, the income tax return for the deceased, Ex.P17, the income tax return for the second Appellant and Ex.P18, the income tax return for the sister of the deceased and only thereafter, assessed the monthly income of the deceased at Rs.5,500/-.

10. The Tribunal has erroneously not granted loss of future prospects to the Appellants/claimants which they are legally entitled to as per the decision of the Constitution Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi & others reported in 2017 (2) TN MAC 609 (SC). The deceased R.R.Palani was aged 20 years at the time of the accident. As per Pranay Sethi's Judgment referred to supra, this Court awards 40% to the Appellants/claimants towards loss of future prospects.

11. The deceased R.R.Palani died as a bachelor. However, the Tribunal has erroneously deducted 1/3rd towards the personal expenses of the deceased which is not a correct deduction as per the decision of the Hon'ble Supreme Court in the case of Sarla Verma vs. Delhi Transport Corporation reported in 2009 (2) TNMAC 1 SC. As per the said decision, the Tribunal ought to have deducted 50% towards the personal expenses of the deceased.

12. The age of the deceased R.R.Palani was 20 years at the time of the accident. As per Sarla Verma's Judgment referred to supra, the correct multiplier to be adopted is 18 and not 15 as fixed by the Tribunal. Accordingly, this Court modifies the multiplier to be adopted for assessing the pecuniary loss to 18 instead of 15.

13. For the foregoing reasons, the pecuniary loss granted by the Tribunal to the Appellants/claimants at Rs.6,66,000/- is enhanced to Rs.8,31,600/- ($5500 + 40\% = 7700 - 50\% = 3850 \times 12 \times 18$) by this Court.

14. The Tribunal has erroneously awarded a meagre compensation of Rs.15,000/- towards loss of love and affection and funeral expenses. As per Pranay Sethi's Judgment referred to supra, the Appellants /claimants are entitled to Rs.15,000/-

towards funeral expenses alone. Accordingly, this Court awards a compensation of Rs.15,000/- towards funeral expenses of the deceased. Insofar as the compensation towards loss of love and affection is concerned, the same is enhanced to Rs.80,000/- as per Pranay Sethi's Judgment referred to supra.

15. The Tribunal has rightly awarded a compensation of Rs.15,000/- towards loss of estate as per Pranay Sethi's Judgment referred to supra and another sum of Rs.10,000/- towards transportation to the Appellants/claimants which is confirmed by this Court.

16. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.7,06,000/- to Rs.9,51,600/- in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Pecuniary loss	6,66,000/- (5500 - 1/3 = 3700 x 12 x 15)	8,31,600/- (5500 + 40% = 7700 - 50% = 3850 x 12 x 18)
Loss of love and affection	15,000/-	80,000/-
Funeral expenses		15,000/-
Loss of estate	15,000/-	15,000/-
Transportation	10,000/-	10,000/-
Total	7,06,000/-	9,51,600/-

Conclusion:

17. In the result, this Appeal is partly allowed. However, the rate of interest fixed by the Tribunal at 9% per annum is confirmed. The respondents are directed to deposit the modified award amount of Rs.9,51,600/- along with interest from the date of claim till the date of deposit, excluding the period of delay of 2816 days and costs, after deducting the amount already deposited if any to the credit of MCOP.No.1063 of 1997 within a period of four weeks from the date of receipt of a copy of this

Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of the award amount along with accrued interest lying to the credit of MCOP.No.1063 of 1997 to the bank account of the respective Appellants/claimants through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar

/true copy/

Sub Asst. Registrar

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To

1.The Motor Vehicles Accidents Claims Tribunal,
Chief Court of Small Causes, Chennai.

Copy to
The Section Officer,
VR Section, High Court,
Chennai.

+1 cc to Mr.A.N.Viswanatha Rao Advocate sr31819
+1 cc to Mr.R.Ravichandran Advocate sr31783

C.M.A.No.867 of 2014

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