



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

CMA No. 3367 of 2006

1. The District Collector,
Villupuram District.

2.The Superintendent of Police,
Villupuram. ... Appellants/Respondents 1 & 2

..VS..

1. Kathavarayan,
S/o.Theevanuran

2.Pachaiyammal,
W/o. Kathavarayan

3.Senthilkumar
S/o. Vadivelu ... Respondents/Claimants 1
& 2, 3rd Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.06.2005 made in M.C.O.P.No.305 of 2004, on the file of the Motor Accidents Claims Tribunal, Fast Track Court -I, Tindivanam.

For Appellants : Mr.Y.T.Aravind Gosh, AGP

For Respondents : No Appearance - R1&R2
Notice unserved- R3

J U D G M E N T

Dissatisfied with the judgment and decree, dated 17.06.2005, passed by the tribunal awarding compensation of Rs.3,85,000/- along with interest at the rate of 9% per annum, the appellants are before this Court to set aside the judgment and decree by the tribunal.

2. It is the case of the claimants/respondents 1 & 2 herein that on 27.12.2000 at about 5.40 p.m the deceased was riding the motorcycle bearing Reg.No. TN04-Z-3468 towards Thiruchitrambalam



Koot Road. While he was proceeding the vehicle with normal speed on the left side of the road, a Government Jeep which was proceeding in a high speed on the opposite side, dashed against the motorcycle, resulting the deceased sustained severe fatal injuries. Hence, the claimants who are the parents of the deceased filed a claim petition before the tribunal, claiming a sum of Rs.10,00,000/- as compensation for the death of the deceased.

3. The tribunal after analyzing both oral and documentary evidences, has fixed the negligence on the driver of the appellants' Jeep and directed to pay a sum of Rs.3,80,000/- as compensation along with interest at the rate of 9% p.a from the date of petition till realization. The compensation awarded by the tribunal under various heads are as follows;

4. The learned Additional Government Pleader appearing for the appellants has submitted that the tribunal erred in fixing the negligence on the appellants without considering the fact that the driver of the jeep was acquitted by the criminal court. The tribunal has failed to appreciate the contention of the appellants herein that the deceased was under the influence of alcohol at the time of the accident, which fact was very much discussed in Ex.B1/Postmortem certificate. The learned Additional Government Pleader further submitted that the monthly income fixed by the tribunal at Rs.3000/- was exorbitant and without any evidence and the sum awarded under the heads Loss of income and other heads are also excessive. Hence prayed to set aside the award.

5. Heard the learned Additional Government Pleader appearing for the appellants. No representation for the respondents 1&2/ claimants and notice returned unserved for R3. Perused the materials available on record.

6. Before the Tribunal, two witnesses P.W.1 & P.W.2 were examined and Exhibits A1 to A5 were marked on the side of the claimants/respondents 1 &2 herein, whereas witness RW1 was examined and Ex.B1 was marked on the side of the respondents/appellants herein.

The following points needs to be answered by this Court;

- i. Whether the negligence fixed by the tribunal on the driver of the appellants' vehicle is correct or not? and
- ii. Whether the tribunal has rightly awarded the compensation to the claimants.



7. A perusal of FIR/Ex.A1 clearly proves that the negligence was on the part of the driver of the appellants' vehicle. Further from the evidence of eyewitness namely Pachaimuthu was examined as PW2, he also deposed that while he was on duty, he witnesses that a police jeep which was coming in the opposite direction in a rash and negligent manner, dashed against the deceased, who was proceeding in a two wheeler. He has also deposed that due to the said accident, the deceased and his two wheeler were thrown away. Though it is contended by the respondents/appellants herein before the tribunal that the said driver was acquitted from the criminal case, in view of the clear statement of eyewitness and Ex.A1/FIR it is clearly proved that the accident had occurred only due to the rash and negligent driving on the part of the driver of the appellants' jeep. Therefore the negligence fixed by the tribunal on the driver of the appellants' jeep is correct and does not require any interference by this Court. The Point No.1 is answered accordingly.

8. As far as quantum of compensation awarded by the tribunal is concerned, though the claimants have stated that the deceased was earning a sum of Rs.4000/- per month by doing plumber work, they have not submitted any documents to prove the same. The tribunal has fixed the monthly income of the deceased at Rs.3000/- and since, the deceased was a bachelor at the time of the accident, the tribunal has taken the age of the mother for adopting multiplier method. Accordingly, by adopting the multiplier 15 i.e for the age group between 40 and 45 and deducting 1/3 towards personal and living expenses, the loss of income was calculated at Rs.3,60,000/- . The tribunal has also awarded compensation under various heads. The total compensation awarded by the tribunal is Rs.3,85,000/-. According to this Court, the said total compensation awarded by the tribunal at Rs.3,85,000/- for the death of a bachelor who lost his life at 22 years is very reasonable and proper. Therefore, this Court confirms that the claimants are entitled for the said compensation. The second point is answered by this Court accordingly.

9. The learned Additional Government Pleader for the appellants has rightly brought the attention of this Court that the tribunal has wrongly calculated the compensation under the head Loss of Income, by deducting 1/3 of total income towards personal and living expenses instead of 50%. The said contention of the learned Additional Government Pleader appearing for the appellants is correct. As per the principles laid down by the Hon'ble Supreme Court in Sarala Verma's Case, for the death of bachelor 50% of the total income has to be



deducted towards personal and living expenses. Likewise the claimants being parents of the deceased, are also entitled to the compensation under the heads Loss of Estate and Filial Consortium. Accordingly, by applying the said principles, without changing the monthly income and multiplier fixed by the tribunal, this Court modifies the compensation under the head loss of income, which arrived at Rs. 2,70,000/- (3000x12x15x1/2). In view of the stand taken by this Court, confirming the total compensation of Rs.3,85,000/- awarded by the tribunal, it would be fair to enhance the compensation under other heads to arrive at the said compensation. Thus, as discussed in above paragraphs, this Court modifies the amount under the heads, without changing the total compensation awarded by the tribunal as follows;

Heads	Compensation awarded by the tribunal Rs.	Compensation modified by this Court Rs.
Loss of income	3,60,000	2,70,000
Mental agony	10,000	40,000 (20000/- each)
Loss of Love and Affection	10,000	20,000 (10,000/- each)
Loss of Estate	...	15,000
Filial consortium	..	30,000 (Rs.15,000/- each)
Funeral Expenses	5000	10,000
Total	3,85,000/-	3,85,000/-

10. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.3,85,000/- is confirmed. The rate of interest at 9% per annum awarded by the tribunal is modified and the claimants are entitled the rate of interest at 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to deposit the entire award amount along with interest, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment.



11. On such deposit, the respondents 1&2/claimants are permitted to withdraw the award amount along with interest as per the apportionment fixed by the tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Fast Track Court -I,
Tindivanam.

2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to the Special Government Pleader Sr.7213

CMA.No.3367 of 2006

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srg 24/09/2021