



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.02.2021

PRONOUNCED ON : 16.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1936 of 2016

1. Mallika

2. Mariyappan ... Appellants/Petitioners

Vs.

1. Rajendran

2. ICICI Lombard Motor Insurance Company Limited,
Issuing Office
No.414, Veer Savarkar Marg, New Siddhi Vinayager Temple,
Prabhadevi, Mumbai - 400 025
Divisional Office,
No.140, Chotabai Centre, 2nd Floor,
Nunganbakkam High Road,
Chennai - 600 034.

... Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.04.2016 and made in MACTOP.No.5201 of 2013, on the file of the Motor Accident Claims Tribunal, learned II Judge, Small Causes Court, Chennai.

For Appellants : Ms.A.Subadra
For Mr.V.Velu
(through physical hearing)

For R1 : Set exparte

For R2 : M/s.C.Elamurugan
for Mr.K.K.Ramakrishnan
(through video conference)



JUDGMENT

Claimants in MCOP.No.5201 of 2013 are the appellants herein.

WEB COPY

2.The claimants are the parents of the deceased viz., Muniyappan, aged 23 years, who died in the road transport accident and hence, the claimants have filed a petition in MCOP.No. 5201 of 2013, before the learned II Judge, Court of Small Causes, Chennai, for claiming compensation. After the Trial, the Tribunal has held that the accident has taken place due to the rash and negligent driving of the driver of the first respondent's vehicle and also held that as an insurer of the first respondent's vehicle, the second respondent is liable to pay the compensation and awarded a sum of Rs.14,90,000/- as compensation. As aggrieved against the compensation awarded by the Tribunal, the claim petitioners have preferred the present Civil Miscellaneous Appeal for enhancement of compensation amount.

3.Factum of the accident, manner of the accident, negligence on the part of the driver of the first respondent's vehicle are not in dispute.

4.On the point of quantum, heard the leaned counsel for the appellants though physical hearing and the learned counsel for the second respondent through video conference.

5.It is a specific case of the claim petitioners/parents of the deceased that the deceased Muniyappan was working as a driver in Jay Jay Aqua Tech, with regard to the same, they have marked the documents viz., Ex.P4/Driving License of the Deceased, Ex.P5/Salary Certificate, Ex.P7/Vehicle Records (Registration No. PY 01 13 X 2100) and the same was marked through one of the co-employee viz.,PW3/Thirunavukarasu, who is attester and his ID card was marked as Ex.P10 and Ex.P9/Authorisation letter from M/s.Jay Jay Auga Tech. As per the salary certificate, this Court finds that the salary is Rs.15,000/- per mensem.

6.The learned counsel for the second respondent/Insurance Company would contend that Ex.P6/Death Certificate cannot be relied upon for the purpose of determination of the age of the deceased. However, as stated supra, the finding with regard to the negligence on the part of the driver of the offending vehicle is confirmed, in the absence of any challenge. As per Ex.P4/Driving license of the deceased, the date of birth is mentioned as 02.01.1990 and hence, age of the deceased was arrived at 23 years at the time of the accident and the claim petitioners are the father and mother viz., parents of the



deceased. As per Ex.P5/salary certificate, the monthly income of the deceased is mentioned as Rs.15,000/-, however, as to the nature of the employment and also about the company, no document has been filed before the Tribunal. However, taking note of the fact that the nature of the employment and avocation of the place, this Court is of the considered view that the monthly salary of the deceased at Rs.10,000/- would meet the ends of justice, following the decision of the Hon'ble Supreme Court, reported in 2020-SCC Online SC 601 [Erudhya Priya Vs. State Transport Corporation Ltd.,].

7.As per the decision of the Hon'ble Supreme Court in the case of Sarla Verma v. Delhi Transport Corporation, reported in [2009 (2) TN MAC 1 (SC)], 40% of the Monthly income has to be added towards future prospects of the deceased, since the deceased is a bachelor and the same is calculated as under:

$$\text{Rs.10,000} + 40\% \text{ of } 10,000/- = \text{Rs.14,000/-}$$

Since the deceased is a bachelor and the claim petitioners are the parents, as per the decision of the Hon'ble Supreme Court reported in 2009 (5) LW 561 [Smt. Sarala Varma & others Vs. Delhi Transport Corporation and another], 50% deduction has to be made and multiplier 18 has to be adopted. Accordingly, the pecuniary loss sustained by the claim petitioners/parents for the death of their son is re-assessed as :

$$\text{Rs.10,000} + 40\% \text{ of } 10,000/- = \text{Rs.14,000/-}$$

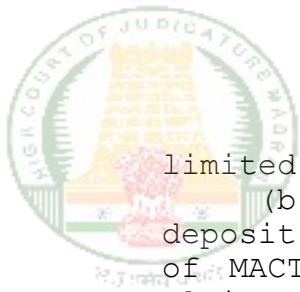
$$\text{Rs.14,000} \times 12 \times 18 \times 1/2 = \text{Rs.15,12,000/-}$$

S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of Pecuniary benefits	12,15,000/-	15,12,000/-
2	Loss of love and affection	2,00,000/-	2,00,000/-
3	Loss of Estate	50,000/-	15,000/-
4	Funeral Expenses	25,000/-	15,000/-
5	Transportation Expenses	---	15,000/-
	Total	14,90,000/-	17,57,000/-

Hence, compensation awarded by the Tribunal is enhanced from Rs.14,90,000/- to Rs.17,57,000/-(Rupees Seventeen Lakhs Fifty Seven Thousand Only).

8.In the result,

(a)This Civil Miscellaneous Appeal is partly allowed to the



limited extent indicated as above.

(b) The second respondent/Insurance Company is directed to deposit the award amount as enhanced by this court to the credit of MACTOP.No.5201 of 2013, on the file of the Motor Accident Claims Tribunal, the learned II Judge, Small Causes Court, Chennai, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c) The award amount will carry interest at the rate of 7.5% per annum from the date of filing of the petition till the date of payment.

(d) On such deposit, the claim petitioners/appellants herein are permitted to withdraw the enhanced compensation amount awarded by this Court as apportioned by the Tribunal, less the amount already withdrawn, if any.

(e) The claimant shall pay necessary Court fee, if any, on the enhanced compensation.

(f) No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

dua

To

The Motor Accident Claims Tribunal,
II Judge, Small Causes Court, Chennai.

Copy to:

The Section Officer,
V.R.Section,
High Court, Madras-104.

Pre-Delivery Judgment
in
C.M.A.No.1936 of 2016

SSV(CO)
SU(13/09/2021)