



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2471 of 2021

1.Manokaran
2.Amudha

... Appellants / Petitioners

Vs.

1.Abdul Azeeth
(Since R1 remained exparte before the
tribunal in presence may be dispensed with)

2.United India Insurance Co. Ltd.,
No.134, Greams Road,
IV Floor, Anna Salai,
Chennai - 600 006.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the award against the Judgment and Decree dated 05.04.2021 and made in MACTOP No.6943/2017 on the file of the Motor Accident Claims Tribunal (Special Judge No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

For Appellant : Mrs.A.Subadra
for M/s M.Malar

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

The appellants challenge the award passed by the Motor Accident Claims Tribunal, (Special Judge No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai in MACTOP



No.6943/2017.

2.The claimants have come up with this appeal seeking enhancement of compensation. This is the case of the fatal accident. On 07.10.2017 at 11.00 a.m, the deceased Sundar was riding in a motorcycle bearing Reg.No.TN-20-S-2796 at Arumanthai new 400 feet Bypass road near Bharat Petrol Bunk at the service road down to the bridge. At that time, a motorcycle bearing Reg.No.TN-18-F-8485 coming from the opposite direction in the same road in a rash and negligent manner and endangering the public safety and dashed against the deceased. Due to which, the deceased thrown out and sustained head injury and other multiple grievous injuries all over the body. Immediately, he was taken to Pudhur Government Hospital and thereafter, he was admitted at Stanley Government Hospital, Chennai for treatment. Despite treatment, he died on 10.10.2017. The parents of the deceased filed the claim petition before the Tribunal. Though they claimed Rs.75,00,000/- as compensation, the Tribunal has awarded Rs.14,29,000/- together with interest at 7.5% per annum, under the following heads:-

Heads	Rs.
Total Loss of Dependency	13,44,000/-
Loss of Love and Affection	50,000/-
Loss of Estate	15,000/-
Transport Charges	5,000/-
Funeral Expenses	15,000/-
Total	14,29,000/-

3.The learned counsel appearing for the appellants would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation. She would further contend that at the time of accident, the deceased was 25 years and he was doing water service work at Arumanthai and earned Rs.25,000/- per month. But the Tribunal without considering the age and avocation of the deceased, fixed the monthly income at Rs.10,000/-, which is meager. Hence, the appellants seek for enhancement of compensation.



4.This Court carefully considered the submission of the learned counsel appearing for the appellants/claimants and perused the materials available on record.

5.It is not in dispute that the deceased died in an road accident that had taken place on 07.10.2017. The finding of the Tribunal that the accident occurred due to the negligence of the rider of the motorcycle bearing Reg. No.TN-18-F-8485 has become final and hence, it need not be adverted to in the appeal.

6.It is stated by the claimants before the Tribunal that the deceased was doing water service work and earning a sum of Rs.25,000/- per month. But no oral and documentary evidence has been produced before the Tribunal to prove the income and avocation of the deceased. Hence, the Tribunal has fixed the income of the deceased as Rs.10,000/- and adopting correct multiplier, awarded a just and reasonable compensation. Further, the customary quantum of compensation under remaining heads were fixed by the Tribunal by following the Judgments of the Hon'ble Supreme Court in the case of National Insurance Company Ltd., vs. Pranay Sethi and others reported in 2017(2) TNMAC 609 (SC) and Sarala Verma and others vs. Delhi Transport Corporation and another reported in 2009 TN MAC 1. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.

7.For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the award amount, as per ratio fixed by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar



1.The Motor Accident Claims Tribunal,
(Special Judge No.1,
Motor Accidents Claims Petitions),
Small Causes Court, Chennai.

2.The Section Officer,
V.R.Section,
High Court,
Chennai.

+1cc to M/s.M.Malar, Advocate, S.R.No.45946

C.M.A.No.2471 of 2021

VBA(CO)
SB(25/10/2021)