IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CMA No.147 of 2014

Marappa ... Appellant/ Petitioner

Vs.

1. B.Rangasamy (Set exparte before the Tribunal)

2. The Branch Manager,
National Insurance Company Limited,
Branch Office, Branch III,
Thanthai Periyar Market Complex,
Govindasamy Pillai Street,
Near Old Bus Stand, Salem 636 001.
... Respondents/ Respondents

Prayer: Civil Miscellaneous Petitions filed under Section 173 of the Motor Vehicles Act against the decree and judgment dated 25.06.2012 passed in MCOP No.1309 of 2010 by the Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri.

For Appellant : Mr.K.Prasanna for
Mr. Mukund R. Pandiyan

For Respondents: Mr.D.Baskaran for R2
Notice unserved to R1

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal seeking enhancement of compensation.

2. The claimant has filed a claim petition before tribunal seeking compensation of Rs.5,00,000/- for the death of his mother namely Puttamma, in a road accident that took place on 11.12.2009.

3. The brief case of the claimant is as follows:
On 11.12.2009, at about 18.30 hours, the deceased Puttamma was standing at the Naripuram bus stop along with her son Marappa to go to Berigai , at that time, a mini lorry bearing registration No.TN-30-B-5792 came from Bagalur to Berigai, dashed against the deceased, thereby she sustained

fatal injuries and died on the spot. According to the claimant, the rash and negligent driving of the driver of the mini lorry was the cause of accident and since the first respondent/ owner of the mini lorry insured his vehicle with the second respondent/ insurance company, both of them are liable to pay compensation to them.

4. The insurance company/ second respondent contested the claim petition by filing counter affidavit.

5. Before Tribunal, the claimant was examined as PW1 and Ex.P4 to Ex.P7 were marked. On the side of the respondents, no oral evidence was adduced, however Ex.R1 to Ex.R3 were marked.

6. After analysing the evidence on record, the Tribunal has awarded a sum of Rs.1,17,000/- under various heads, as extracted hereunder.

Sl No	Heads	Amount in Rs.
1	Loss of dependency 2500-1/3 = 1650 x 12 x5	99,000
2	Loss of Love and affection	13,000
3	Funeral expenses	5,000
	Total	1,17,000

Not satisfied with the quantum of compensation, the claimant has filed the present appeal seeking enhancement of compensation.

7. Heard the learned counsel appearing for the appellant/ claimant and also the counsel for the respondent/ insurance company. I have perused the materials on record.

8. The learned counsel appearing for the claimant/appellant submitted that the deceased was a vegetable vendor and was earning a sum of Rs.3,300/- per month, however, without considering the same, the Tribunal has erroneously fixed the monthly income of the deceased at Rs.2,500/- per month. He further submitted that the deceased was aged 54 years on the date of accident and hence, the proper multiplier to be adopted in this case is '9', but the Tribunal has taken the multiplier '6'. His contention is that the Tribunal has awarded inadequate compensation under the conventional heads and hence, he prayed for enhancement of compensation.

9. The learned counsel appearing for the respondent/ insurance company submitted that after analysing the oral and documentary evidence, the Tribunal has awarded a just and reasonable compensation and hence, the same does not warrant any interference by this court.

10. Now the point for consideration is whether the compensation awarded by the Tribunal has to be enhanced.

11. POINT

In the claim petition, the age of the deceased was mentioned as 54 years. It is discussed by the Tribunal that in Ex.R1 legal heirship certificate, the age of the deceased is mentioned as 50 years, and in Ex.R2 family ration card mentioned as 68 years and in Ex.R3 death certificate, it is mentioned as 72 years and hence the deceased would be above 65 years and has taken the multiplier '6'. To disprove the above fact and to prove the age of claimant was 54 years, the claimant has not filed any documentary evidence. Therefore, the Tribunal has rightly concluded that the deceased was aged above 65 years. As per the decision rendered in Sarla Varma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier to be adopted for above 65 years is '5'.

12. The contention of the claimant is that the deceased was a vegetable vendor and was earning a sum of Rs.3,300/- per month. But the Tribunal has fixed the monthly income at Rs.2,500/-. The learned counsel appearing for the respondent/ insurance company submitted that as per the Schedule appended to Section 163-A of the Motor Vehicles Act, maximum ceiling for the income is Rs.4,000/-. Therefore, as per the claim petition, the monthly income of the deceased is fixed at Rs.3,300/-. After deducting 1/3 towards personal income deceased, loss of dependency is calculated as 3300-1100 = 2200 x 12 x 5 = 1,32,000/-. As far as the other heads are concerned, the compensation awarded by the Tribunal is confirmed. Accordingly, the revised compensation awarded under the various is extracted hereunder.

Sl. No	Heads	Compensation Awarded by the Tribunal	Compensation enhanced/ Awarded by this court
1	Loss of dependency x5	99,000	1,32,000
2	Loss of Love and affection	13,000	13,000
3	Funeral expenses	5,000	5,000
4	Total	1,17,000	1,50,000

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

13. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from Rs.1,17,000/- to Rs.1,50,000/- No costs.

(ii) The insurance company is directed to deposit the revised compensation of Rs.1,50,000/- with interest at the rate of 7.5.% p.a. from the date of claim petition till the date of deposit, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the insurance company, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mst

To

1. The Additional District Judge,
   Motor Accident Claims Tribunal,
   Krishnagiri.

2. Section Officer,
   V.R. Section,
   High Court, Madras.

+1CC to Mr.Mukund R. Pandiyan, Advocate SR.No.21170

CMA No.147 of 2014

PP(CO)
K.RK.(02.11.2021)