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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved Date : 22.07.2021
Pronounced Date : 06.10.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

Civil Miscellaneous Appeal Nos. 3019 and 3020 of 2014

1.G.Mohan
2.M.Princey .. Appellants
(in C.M.A.No.3019 of 2014)

1.K.Manean
2.V.Kalamani .. Appellants
(in C.M.A.No.3020 of 2014)

Versus

1.S.Sakthivel
2.P.Selvaraj
3.M/s.United India Insurance Company Limited,
Micro Office, D.No.22-B Shop No.11,
Krishnaveni Complex, Pallipalayam-638 006
4.M.Vijayakumar
5.M/s.United India Insurance Company Limited,
old No.1028, New No.768, Avinasi road, 1st floor,
United India Building, Coimbatore-18

(Respondents 4 and 5 are not necessary parties in the above
appeal and no claim is made against them and they are given up)

.. Respondents in both C.M.As

Common Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act 1988, against the Judgment and Decree dated
03.03.2014 made in M.C.O.P. Nos. 2213 and 2214 of 2012 on the
file of the Motor Accident Claims Tribunal, Special Sub Judge,
Coimbatore.

In Both C.M.As

For Appellants : Mr.N.Anbalagan
for A.E.Ravichandran
For R3 : M/s.I.Malar
For R4&R5 : Given up



COMMON JUDGMENT

The matter is heard through "Video Conferencing/Hybrid mode".

These Civil Miscellaneous Appeals have been filed against the common award dated 03.03.2014 made in M.C.O.P.Nos. 2213 and 2214 of 2012 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Coimbatore.

2.Both the appeals arise out of the same accident and common award. Hence, they are disposed of by this common judgment. Since both the appeals are arising out of the common award, the parties are referred to as per their rank in the claim petition.

3.The appellants in C.M.A.Nos.3019 and 3020 of 2014 are the claimants in M.C.O.P.Nos. 2213 and 2214 of 2012. The claimants in M.C.O.P.No. 2213 of 2012 filed the said claim petition claiming a sum of Rs.1,00,00,000/- as compensation for the death of their daughter viz., M.Shalina, who died in the accident that took place on 29.06.2012. The claimant in M.C.O.P.No.2214 of 2012 filed the said claim petition claiming a sum of Rs.1,00,00,000/- as compensation for the death of their daughter viz., M.Saranya, who died in the accident that took place on 29.06.2012.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to rash and negligent driving by the driver of the lorry belonging to the second respondent, which vehicle was insured with the third respondent and hence, directed the third respondent to deposit a sum of Rs.22,13,200/- as compensation to the claimants in M.C.O.P.No.2213 of 2012 and a sum of Rs.23,88,400/- as compensation to the claimants in M.C.O.P.Nos.2214 of 2012.

5.Not being satisfied with the amounts awarded by the Tribunal, the claimants have come out with the present appeals for enhancement of compensation.

6.According to the appellants/claimants, on 29.06.2012 at about 8.45 p.m., while the deceased M.Shalina and M.Saranya along with their colleagues Gokul Prabhu, Anandha Kumar and others were returning back to coimbatore in Tavera Car bearing registration No.TN 66 E 9927 on the Salem to Coimbatore National Highways Road, from North to South direction in front of Saravana Hotel near Chithode Bye pass junction, the driver of the lorry bearing Registration No.TN 33 BA 6945 belonging to the second respondent drove the same in a rash and negligent manner without obeying the traffic rules and suddenly turned out on



right side of the said bye pass junction without any signals and caused the accident. In the accident, the said M.Shalina and M.Saranya sustained fatal head injuries and multiple injuries all over the body. Immediately after the accident, the said M.Shalina was taken to Government Hospital, Erode for first aid treatment but the duty doctors of the said Government Hospital, Erode examined the said M.Shalina and declared her death. Immediately after the accident, the said M.Saranya was taken to Government Hospital, Erode for first aid treatment and thereafter she was taken to Lotus Hospital, Erode. Further she was sent to Kovai Medical Centre and Hospital, Coimbatore on 30.06.2012. In spite of treatment on 08.07.2012 she died in the hospital. Therefore, the appellants / claimants being parents of the deceased filed the above said claim petitions against the respondents.

7. The learned counsel for the appellants contended that at the time of accident, the deceased were working as Training Consultants at Focus Academy for Career Enhancement, Coimbatore and were earning a sum of Rs.24,800/- per month. The deceased were 21 years at the time of accident and the Tribunal has not granted any award amount towards future prospects. The Tribunal ought to have granted 50% enhancement towards future prospects as per the judgment of the Hon'ble Apex Court in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601 (SC). The Tribunal erroneously fixed the multiplier as 14 in M.C.O.P.No.2213 of 2012 and as 13 in M.C.O.P.No.2214 of 2012 on the ground that the age of the mother of the deceased were 42 and 46 years respectively at the time of accident. The Correct multiplier applicable as per the judgment of the Hon'ble Apex Court in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121 is 18. The Tribunal has not granted any amount towards transportation, pain and suffering and mental agony and prayed for enhancement of compensation.

8. Though notice was served on the respondents 1 and 2 and their names were printed in the cause list, there is no representation for them either in person or through counsel.

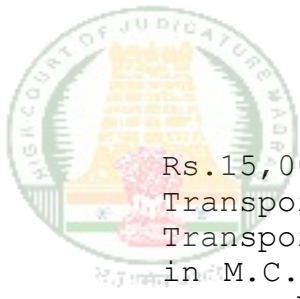
9. The learned counsel appearing for the third respondent contended that the Tribunal has fixed a sum of Rs.24,800/- as monthly income of the deceased based on the evidence of P.W.3 and awarded a sum of Rs.20,83,200/- and Rs. 19,34,400/- respectively as compensation towards loss of dependency and the same is excessive. The Tribunal has awarded a sum of Rs.1,00,000/- towards loss of love and affection, Rs.25,000/- towards funeral expenses and Rs.3,24,000/- towards medical expenses which are excessive. Hence the appellants are not



entitled to any enhancement and prayed for dismissal of the appeal.

10. Heard the learned counsel for the appellants and the learned counsel for the respondents and perused the entire materials on record.

11. From the materials on record, it is seen that at the time of accident the deceased M. Shalina in M.C.O.P.No.2213 of 2012 and the deceased M. Saranya in M.C.O.P.No.2214 of 2012 were aged 21 years and were working as Training Consultants at Focus Academy for Career Enhancement, Coimbatore and were earning a sum of Rs.24,800/- per month. To prove the said contention the appellants examined one Ramanath as P.W.3, who is the Manager of the said company. The appellants also produced the salary certificates were marked as Ex.P11 and 13 respectively. The Tribunal considering the evidence of P.W.3 and considering salary certificate of Ex.P11 and 13, fixed a sum of Rs.24,800/- as monthly income of both the deceased and the same is proper. The deceased were aged 21 years at the time of accident and the Tribunal has not granted any amount towards future prospects. As per the Judgement of the Hon'ble Apex Court in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601 (SC) the appellants are entitled to 40% enhancement towards future prospects of the deceased. The Tribunal has applied the multiplier 14 in M.C.O.P.No.2213 of 2012 and 13 in M.C.O.P.No.2214 of 2012 based on the age of the mother of the deceased and the same is not correct. The age of the deceased is the basis for applying multiplier. As per Ex.P9/postmortem certificate in M.C.O.P.No.2213 of 2012 and Ex.P11/postmortem certificate in M.C.O.P.No.2214 of 2012 the deceased were aged 21 years at the time of accident. The correct multiplier applicable as per the judgment of the Hon'ble Apex Court in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121 is 18. The deceased were bachelors at the time of accident and the Tribunal has rightly deducted 50% towards personal income of the deceased. Thus by granting 40% enhancement towards future prospects and applying multiplier 18, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.37,49,760/- $(34,720 ((24,800 + 9,920) (40\% \text{ of Rs.24,800})) \times 12 \times 18 \times \frac{1}{2}))$ under the head "loss of income". A sum of Rs.1,00,000/- awarded by the Tribunal towards loss of love and affection is excessive. The appellants being the parents of the deceased are entitled to a sum of Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses which is excessive and the same is reduced to Rs.15,000/-. A sum of Rs.5,000/- awarded by the Tribunal towards loss of estate is meagre and the same is enhanced to



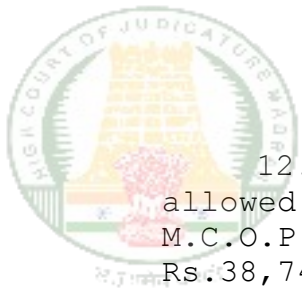
Rs.15,000/-. The Tribunal has not awarded any amount towards Transportation. This Court awards a sum of Rs.15,000/- towards Transportation. A sum of Rs.3,24,000/- awarded by the Tribunal in M.C.O.P.No.2214 of 2012 towards medical expenses is just and reasonable and the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

In C.M.A.No.3019 of 2014

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	20,83,200/-	37,49,760/-	Enhanced
2.	Loss of love and affection	1,00,000/-	80,000/-	Reduced
3.	Funeral expenses	25,000/-	15,000/-	Reduced
4.	Loss of estate	5,000/-	15,000/-	Enhanced
5.	Transportation	-	15,000/-	Granted
	Total	Rs.22,13,200/-	Rs.38,74,760/-	enhanced by Rs.16,61,560/-

In C.M.A.No.3020 of 2014:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	19,34,400/-	37,49,760/-	Enhanced
2.	Medical Expenses	3,24,000/-	3,24,000/-	confirmed
3.	Loss of love and affection	1,00,000/-	80,000/-	reduced
4.	Funeral expenses	25,000/-	15,000/-	reduced
5.	Loss of estate	5,000/-	15,000/-	enhanced
6.	Transportation	-	15,000/-	Granted
	Total	Rs.23,88,400/-	Rs.41,98,760/-	enhanced by Rs.18,10,360/-



12. In the result, this Civil Miscellaneous Appeals are allowed. The compensation awarded by the Tribunal in M.C.O.P.No.2213 of 2012 at Rs.22,13,200/- is hereby enhanced to Rs.38,74,760/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The compensation awarded by the Tribunal in M.C.O.P.No.2214 of 2012 at Rs.23,88,400/- is hereby enhanced to Rs.41,98,760/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The third respondent-Insurance Company is directed to deposit the enhanced award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.Nos.2213 & 2214 of 2012 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Coimbatore. On such deposit, the appellants are permitted to withdraw the same, as their respective share of the enhanced award amount now determined by this Court, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The appellants are directed to pay the necessary Court fee on the enhanced amount of compensation. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

To

1. The Motor Accident Claims Tribunal/
Special Sub Judge, Coimbatore.

2. The Section Officer
Vernacular Records Section
High Court, Madras.

+2CCs to Mr.A.E.Ravichandran, Advocate, Sr.Nos.52911, 52910
+1CC to Mr.T.Ravichandran, Advocate, Sr.No.53112

pre-delivery judgment in
CMA.No.3019 and 3020 of 2014

RP (CO)
K.RK. (30.11.2021)