



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) No.1317 of 2011

1.Rathinabai
2.Bharathamani
3.Padmavathi
4.Thirumalairajan

...Appellants/Claimants

Vs.

1.T.Arunachalam

2.The Divisional Manager,
New India Assurance Company Limited,
Sivakasi.

3.Velmurugan

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the decree and judgment passed in M.C.O.P.No.62 of 2006, dated 05.01.2001 on the file of the Motor Accidents Claims Tribunal Cum Subordinate Judge, Sivakasi.

For Appellants	:Mr.M.Ashokkumar
For R1	:No Appearance
For R2	:Mr.G.Prabhu Rajadurai

JUDGMENT

The appellants are the claimants in M.C.O.P.No.62 of 2006 on the file of the Motor Accidents Claims Tribunal Cum Subordinate Judge, Sivakasi. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.4,00,000/- for the injuries sustained by one Gopalakrishnan.

2. The case of the claimants, in nutshell, is as follows:

On 02.10.2004 at 2.15 p.m., when the first petitioner Gopalakrishnan (died) was riding his bicycle from north to south towards Sattur to Virudhunagar Road, at that time, a TATA Sumo bearing Registration No.TN-67-U-2765, which was coming from same direction driven by its driver in a rash and negligent manner hit against the bicycle. Due to said accident, the said Gopalakrishnan (died) has sustained fracture on his left fore arm and hip and blood injuries all over the body and admitted in the Star Hospital, Sattur.

3.The claimants have filed the claim petition in M.C.O.P.No.62 of 2006 on the file of the Motor Accidents Claims Tribunal Cum Subordinate Judge, Sivakasi, seeking compensation of Rs.4,00,000/-.



4.Before the Tribunal, on the side of the claimants, two witnesses were examined as P.W.1 and P.W.2 and sixteen documents were marked as Exs.P.1 to P.16. On the side of the respondents herein, no one was examined and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimant and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the first respondent and directed the second respondent to pay a sum of Rs.53,315/- as compensation. Aggrieved over the orders passed by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

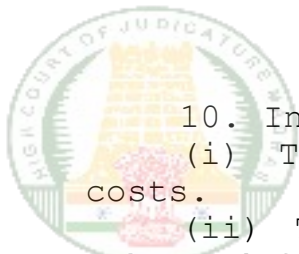
6.Heard Mr.M.Ashokkumar, learned counsel appearing for the appellants/claimants and Mr.G.Prabhu Rajaduri, learned counsel appearing for the second respondent/insurance company and perused the material documents available on record.

7.The learned counsel for the appellants/claimants contended that the Tribunal has failed to adopt multiplier method for calculating the loss of income of the deceased from the date of the accident and also failed to award compensation with regard to pain and sufferings, Attendant Charge and Surgery Expenses. Hence, the award passed by the Motor Accidents Claims Tribunal is liable to be modified.

8.Perusal of records, it shows that during pendency of M.C.O.P, the claimant died. Since the appellants/petitioners 2 to 5 were impleaded as the legal heirs of the deceased, it is not proved that the deceased died only due to the accident. But the award of compensation granted by Tribunal is very low. Considering the nature of the injuries sustained by the deceased, this Court is inclined to enhance the award amount under various heads is extracted hereunder:

S.No.	Head	Amount granted by this Court
1.	Medical Expenses	Rs.1,00,000/-
2.	Loss of income	Rs. 12,000/-
3.	Pain and Sufferings	Rs. 10,000/-
4.	Extra nourishment	Rs. 5,000/-
5.	Transportation	Rs. 5,000/-
Total		Rs.1,32,000/-

9.Thus the quantum of compensation awarded by the Tribunal is enhanced from Rs.53,315/- to Rs.1,32,000/- which would carry interest at the rate of 7.5% per annum.



10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.53,315/- to Rs.1,32,000/-.

(iii) The second respondent/ Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.1,32,000/- (Rupees One lakh thirty two thousand only), less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.62 of 2006 on the file of the Motor Accidents Claims Tribunal Cum Subordinate Judge, Sivakasi, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first appellant is entitled to withdraw Rs.72,000/- and the 2 to 4 appellants are entitled to withdraw Rs.20,000/- each by filing necessary application before the Tribunal.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

vsd

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Motor Accidents Claims Tribunal
Cum Subordinate Judge, Sivakasi.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-38553[F] dated 14/12/2021)

+1 CC to M/s.M.ASHOKKUMAR, Advocate (SR-38418[F] dated 13/12/2021)

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RD(18.02.2022) 3P 6C

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