



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A (MD) No. 771 of 2010

1.Michael Ammal
2.Irudhayameri
3.James Sahayaraj : Appellants/Petitioners

Vs.

1.The Branch Manager,
United India Insurance Company,
Virudhunagar. : 1st Respondent/3rd Respondent
2.Gurumoorthy : 2nd Respondent/1st Respondent
3.Deivanayaga Raja : 3rd Respondent/2nd Respondent
4.The Branch Manager,
Oriental Insurance Company Ltd.,
Branch Office, Malik Mahal,
1st Floor, K.P.D.Junction,
Nagercoil,
Agastheswaram (T.K),
Kanyakumari District. : 4th Respondent/4th Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, to allow the appeal and modify the award passed in M.C.O.P.No.54 of 2000 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Kanyakumari at Nagercoil.

For Appellants : Mr.R.J.Karthick
For R1 : Mr.A.S.Mathialagan
For R2 : No appearance
For R3 : Dismissed vide court order
dated 25.02.2010
For R4 : Mr.K.Bhaskaran

JUDGMENT

Being dissatisfied with the quantum awarded by the Motor Accident Claims Tribunal, Principal District Judge, Kanyakumari at Nagercoil in M.C.O.P.No.54 of 2000, dated 12.06.2001, the



claimants, have filed this appeal seeking enhancement of compensation.

2. In the accident, that had occurred on 08.05.1992, the husband of the first claimant, namely, Antony and their son James Arulraj succumbed to the injuries. It is their case that both were travelling in a motorcycle bearing Registration TN-74-8226 on Nagercoil-Kanyakumari National Highway. At that time, a Mahindra Van, bearing Registration No.TN-59-0169 was driven by its driver in a rash and negligent manner and hit against the two-wheeler. In the accident both sustained injuries and died.

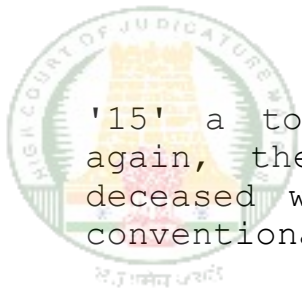
3. The claimants would state that the first deceased Antony was working as Extension Officer, Social Authorised Rural Development Department and he was paid a sum of Rs.3,042/- per month. The second deceased James Arulraj was 18 years old and he was a student and hence, they are entitled for total compensation of Rs.6,44,420/-.

4. After analysing the evidence adduced by the parties, the Tribunal came to the conclusion that the accident occurred due to the negligence of the driver of the Mahindra Van. The said finding of the Tribunal has become final, since no appeal has been filed by the respondent. The Tribunal totally awarded a sum of Rs.4,15,000/-.

5. Ex.R1 shows that on the date of accident, the offending vehicle was insured with United India Insurance Company, the first respondent herein. Ex.R6-SSLC certificate shows that the first deceased Antony was 48 years old at the relevant point of time. Ex.P7-salary certificate would reveal that he was drawn Rs.2,937/- per month. The Tribunal after deducting 1/3rd for his personal expenses, taken Rs.1958/- as monthly income and by applying multiplier '13', awarded Rs.3,05,450/- towards loss of income. In addition, Rs.1,000/- was awarded for transportation, Rs.550/- for damage to the articles.

6. The learned counsel for the appellant would urge that as per the decision of the Apex Court reported in **2017(2) TNMAC 609 (SC) [National Insurance Co. Ltd., v. Pranay Sethi]**, the claimants are entitled to Rs.70,000/- towards conventional damages. I find force in the submission of the learned counsel for the appellant, hence Rs.70,000/- is awarded under the head of conventional damages.

7. The second deceased James Arulraj was 18 years old on the date of accident. He was studying in a school. The Tribunal taking notional income at Rs.1,200/-, deducted 50% towards his personal expenses, since he was a bachelor, by applying multiplier



'15' a total compensation was reached at Rs.1,08,000/-. Here again, the learned counsel for the appellant stated that the deceased was entitled for another sum of Rs.70,000/- under the conventional damages.

8. It cannot be disputed that in the case on hand, the claimants are not entitled to conventional damages. Hence, this Court awards Rs.70,000/- towards conventional damages, keeping in view of the decision referred above and modified the award as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	3,05,450	3,05,450	confirmed
2.	For Transportation	1000	1000	confirmed
3.	For damages to articles	550	550	confirmed
4.	For loss of income (2 nd deceased)	1,08,000	1,08,000	confirmed
5.	For conventional damages (1 st deceased)		70,000	awarded
6.	For conventional damages (2 nd deceased)		70,000	awarded
	Total	Rs.4,15,000	Rs.5,55,000	By enhancing a sum of Rs.1,40,000/-

9. In the result, this Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from Rs.4,15,000/- to a sum of **Rs.5,55,000/-**. **The original award amount of the Tribunal shall carry interest at the rate of 9% per annum and the enhanced award amount shall carry interest at the rate of 6% p.a.,** from the date of admission of the appeal till the date of realization with proportionate costs, as this appeal came to be renumbered after a decade of the disposal of the claim petition. The respondents 1 to 3 shall deposit the enhanced award amount with interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. The



claimants are permitted to withdraw the award amount as per the apportionment made by the Tribunal. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

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 Principal District Judge,
Motor Accident Claims Tribunal,
Kanyakumari at Nagercoil.

2.The Section Officer-2 copies
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.BASKARAN, Advocate (SR-4153[F] dated 10/02/2021)

+1 CC to Mr.A.S.MATHIALAGAN, Advocate (SR-4174[F] dated 10/02/2021)

+1 CC to Mr.R.J.KARTHICK, Advocate (SR-4542[F] dated 11/02/2021)

C.M.A (MD) No.771 of 2010

09.02.2021

KM (04.03.2021) 4P 7C