# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**Civil Miscellaneous Appeal No.437 of 2012**

1. R.Chithra
2. N.Ramachandran ... Appellants

..Vs..

1. A.Babu Lakshmanan

2. United India Assurance Company Ltd.,
No.58, Purasawakkan High Road,
Chennai – 600 007. ... Respondents

**Prayer:** Civil Miscellaneous Appeal has been filed under section 173 of the Motor Vehicles Act 1988 against the judgment and decree dated 28.07.2011 made in M.C.O.P.No.2997 of 2008 on the file of the Motor Accident Claims Tribunal – cum – Chief Small Causes Court, Chennai.

For Appellants : Mr.R.Rajaramani

For respondents : Mr.S.Arunkumar – for R2

## J U D G M E N T

The parents of the deceased, who are the claimants in MCOP No.2997 of 2008 filed this Civil Miscellaneous Appeal praying for enhanced compensation.

2. The appellants' son Rajaraman died in the road accident that occurred on 16.12.2007. The deceased was aged about 20 years at the time of accident. Appellants claimed a compensation of Rs.20 lakhs from the respondents viz.,the owner and the insurer of the offending vehicle.

3. The Court below after considering the pleadings, counter, oral and documentary evidence of both sides, awarded a sum of Rs.4,88,000/- under the following heads:

| S.No | Particulars | Amount in Rs. |
|---|---|---|
| 1. | Pecuniary loss [36,000/- p.a., x 13] | 4,68,000/- |
| 2. | Loss of love and affection | 10,000/- |
| 3. | Funeral Expenses and transport to hospital expenses | 10,000/- |
| | Total | 4,88,000/- |

4. Not satisfied with the award amount, the appellants have preferred this appeal before this Court for enhancement of award.

5. The main contention of the learned counsel for the appellants/claimants is that the Tribunal erred in taking the monthly income of the deceased at Rs.6,000/- per month instead of Rs.15,000/- as per the salary certificate produced by the appellants. The Tribunal also erred in deducting 50% towards personal expenses of the deceased instead of deducting 1/3rd and that the correct multiplier to be adopted is 18 as per the dictum of the Honourable Supreme Court.

6. The learned counsel for the second respondent/Insurance company would submit that the award of the Court below needs no interference.

7. Heard the learned counsel for the appellants and the learned counsel for the second respondent and perused the materials available on record.

8. The Tribunal pointed out that even though Ex.P.10 salary certificate was produced by the claimants, those documents are issued only after the accident i.e., 30.12.2007 and no document prior to the accident is produced and that the owner of the company has not proved the avocation and income of the deceased by reliable oral and documentary evidence; however, considering the age, period of accident, educational qualification and other factors, fixed Rs.6000/- per month

and deducted 50% from the annual income as the deceased was a bachelor. Further, taking the age of the mother and father, adopted multiplier 13 and calculated the pecuniary loss as Rs.4,68,000/-.

9. Following the dictum laid down by the Honourable Supreme Court in the case of ***Sarla Verma and others Vs Delhi Transport Corporation and another, [(2009) 6 SCC 121]***, as far as deduction towards personal expenses is concerned, 50% deduction in the case of deceased bachelor is the proper computation. As far as adopting the multiplier, age of the deceased is to be taken into consideration and not the age of the parents. So the correct multiplier to be adopted is 18 in the case on hand.

10. Applying the principles enunciated by the Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Others***, 40% of the established income should be added in respect of future prospects. Taking into consideration the avocation of the deceased that he was working as Computer Hardware Engineer, Rs.7000/- is taken as notional monthly income, 40% of future prospects ie., Rs.2,800/- is added to monthly income and by deducting 50%

towards personal expenses and adopting multiplier 18 would be the determination of just and proper compensation for arriving at pecuniary loss. The calculation is as under:-

Rs.7,000/- x 40 % x 12 x 18 – 50% = Rs.10,58,400/-

9. As far as compensation granted under other heads are concerned, the same are just and reasonable and needs no interference. The modified compensation is as follows:-

| *Sl. No.* | *Headings* | *Amount Awarded by the Tribunal Rs.* | *Amount awarded by this Court Rs.* | *Award confirmed or enhanced* |
|---|---|---|---|---|
| 1 | Pecuniary loss | 4,68,000/- | 10,58,400/- | enhanced |
| 2 | Loss of love and affection | 10,000/- | 10,000/- | confirmed |
| 3. | Funeral expenses and Transportation to hospital expenses | 10,000/- | 10,000/- | confirmed |
| 4 | Total | 4,88,000/- | 10,78,400/- | enhanced |

10. In the result, this Civil Miscellaneous Appeal is partly allowed. The compensation is enhanced from Rs.4,88,000/- to Rs.10,78,400/-.

11. (i) The second Respondent-Insurance Company is directed to deposit

the award amount, together with interest at 7.5% per annum from the date of the Claim Petition till the date of deposit, less the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment.

(ii) On such deposit, the appellants are entitled to withdraw the enhanced compensation along with accrued interest in the ratio of 50% : 50%.

(iii) The appellants are directed to pay necessary court fee, if any, on the enhanced compensation.

(iv) No costs.

**16.03.2022**

Index:yes/no

mvs/nvsri

To

1.The Motor Accident Claims Tribunal – cum –
Chief Small Causes Court, Chennai.

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

**J.NISHA BANU, J**

mvs/nvsri

**Civil Miscellaneous Appeal No.437 of 2012**

**16/3/2022**