



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

C.M.A.No.1209 of 2018

1.S.Venkattammal
2.M.Seethappa

.. Appellants

Vs.

1.Wilson Mathew
(Since R1 remained ex parte before the
tribunal his presence may be dispensed with)

2.National Insurance Co. Ltd.,
No.751, Annasalai,
Chennai - 600 002.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award against the judgment and decree dated 14.03.2017 made in M.A.C.T.O.P.No.604/2014 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Thiruvallur at Poonamallee.

For Appellants : Mr.F.Terry Chella Raja

For Respondent-2 : Mr.C.R.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed seeking enhancement of compensation granted by award dated 14.03.2018 made in M.A.C.T.O.P.No.604 of 2014 on the file of the Motor Accidents Claims Tribunal/III Additional District Judge, Thiruvallur at Poonamallee..

2. Venkatammal is the mother of the deceased bachelor S.Sivasankar. The parents of the deceased S.Sivasankar had preferred M.C.O.P.No.604 of 2014 seeking compensation for the death of their son S.Sivasankar in a Motor accident. On consideration of the evidence presented, by judgment dated 14.03.2017, the Tribunal had granted a sum of Rs.15,69,600/- as compensation.

3. The calculation of the Tribunal was as follows:



WEB COPY

Loss of dependency	Amounts
Monthly income	Rs.9,340/-
For the personal expenditure of the deceased 1/3 rd to be deducted Rs.9,340 x 1/3	Rs.3,115/-
Monthly contribution to the family Rs.9,340 - Rs.3,115	Rs.6,225/-
Annual contribution to the family Rs.6,225 x 12	Rs.74,700/-
By applying multiplier 18 Rs.74,700 x 18	Rs.13,44,600/-
Head	Amount
Total amount for Loss of dependency	Rs.13,44,600/-
For Funeral Expenses	Rs.25,000/-
For Love, Affection, pain and sufferings	Rs.2,00,000/-
Total	Rs.15,69,600/-

4. Aggrieved by such determination of compensation, the claimants have filed the present appeal.

5. The facts reveal that the deceased S.Sivasankar was travelling as a pillion rider in a Motor Cycle bearing Registration No.KL 58 M 7055 on 19.06.2014 in the evening at 4.15 p.m. at C.T.H.Road, Padi. At that time, the driver of the vehicle S.Manoj Kumar is alleged to have driven the vehicle in a rash and negligent manner and hit another Motor Cycle, consequent to which, the deceased S.Sivasankar was thrown out of the pillion seat and suffered head injuries. Though he was admitted in the hospital, he died later in the evening at 6.30 p.m. While examining the facts, the Tribunal had determined that the accident occurred only due to the rash and negligent driving of the driver of the first respondent's Motor Cycle. This finding is affirmed by me.

6. The Tribunal then proceeded to determine the compensation. During the course of trial, Exs.P10, P11 and P12 were marked, which reflected the salary of the deceased for the months of March, April and May, 2014. The deceased was working as workman Trainee in Sundaram Clayton Company and the salary certificates revealed that he was paid a gross salary of Rs.10,485.59 and after a deduction of Rs.1,153.88, the Net salary was Rs.9,340/-. The Tribunal took that net salary as the monthly income and deducted 1/3rd from the same, namely, Rs.3,115/- and then determined the actual salary, which the claimants/appellants could have benefited at Rs.6,225/- per month. The tribunal took into consideration the age of the deceased, 25 years, and that he was a bachelor and adopted a multiplier of '18' and determined the total income at Rs.13,44,600/-. The tribunal had also granted a sum of Rs.25,000/- towards funeral expenses and granted a sum of Rs.1



Lakh to each claimants for the loss of her son and finally came to a total calculation of Rs.15,69,600/- as compensation.

7. The learned counsel for the appellants assailed the above calculation on the ground that though documents have been presented indicating the monthly salary at Rs.10,485.59, the Tribunal had taken into consideration only the Net salary of Rs.9,340/-. It was also stated that no amount had been granted towards future prospects and therefore, the learned counsel stated that 40% may be added to the future prospects. I would agree to that argument.

8. I would further enhance the amount granted towards funeral expenses to Rs.15,000/-. Further, the amount granted towards loss of love, affection, pain and sufferings for a sum of Rs.1,00,000/- to each of the parents has to be interfered with and a sum of Rs.40,000/- is granted to each of the parents, which totally comes to Rs.80,000/-. Further, a sum of Rs.15,000/- is granted towards loss of estate.

9. Now the actual total compensation payable is as follows:

Loss of dependency	Amounts
Monthly income	Rs.10,485/-
40% to be added as future prospects Rs.10,485 x 40/100	Rs.4,194/-
Total monthly income Rs.10,485 + 4,194	Rs.14,679/-
For the personal expenditure of the deceased 50% to be deducted Rs.14,679 x 50/100	Rs.7,340/-
Monthly contribution to the family Rs.14,679 - Rs.7,340	Rs.7,340/-
Annual contribution to the family Rs.7,340 x 12	Rs.88,080/-
By applying multiplier 18 Rs.88,080 x 18	Rs.15,85,440/-
Head	Amount
Total amount for Loss of dependency	Rs.15,85,440/-
For Funeral Expenses	Rs.15,000/-
For Love, affection, pain and sufferings	Rs.80,000/-
For Loss of estate	Rs.15,000/-
Total	Rs.16,95,440/-

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.15,69,600/- is hereby enhanced to Rs.16,95,440/- together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit. The other



aspects in the order shall remain the same. The appellants/claimants shall share the above said compensation equally. The 2nd respondent-Insurance Company shall deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.604 of 2014 on the file of the Motor Accident Claims Tribunal, (III Additional District Judge), Thiruvallur at Poonamallee. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellants/Claimants through RTGS, within a period of two weeks thereafter. The appellants are directed to pay the necessary Court fee, if any, on the enhanced compensation No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The III Additional District Judge,
Motor Accident Claims Tribunal,
Thiruvallur at Poonamallee.
2. The Section Officer,
VR Section, High Court,
Madras.

+1cc to M/s.M.Malar, Advocate SR. No. 12716

+1cc to Mr.C.R.Krishnamoorthy, Advocate SR. No. 12550

C.M.A.No.1209 of 2018

JP II (CO)

PR (22/04/2022)