



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.M.A.No.1854 of 2017

Sundaram

...Appellant / Respondent

Vs.

1.Baby
2.Anburaj
3.Ashokan
4.Ananth

...Respondents / Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.06.2016 made in M.C.O.P.No.225 of 2011 on the file of the Motor Accident Claims Tribunal - Principal District Court, Namakkal.

For Appellant : Ms.Zeenath Begum

For Respondents : Mr.N.Vijaybaskar
for M/s. Law Vision

JUDGMENT

Respondent in M.C.O.P.No.225 of 2011, which was on the file of the Principal District Court/ Motor Accident Claims Tribunal, Namakkal is the appellant herein, aggrieved by the order dated 24.06.2016 awarding compensation of Rs.7,10,120/- for the unfortunate death in a road accident of Kuppan, who was the husband of the first claimant before the Tribunal and the father of claimants 2 to 4.

2. The necessary facts for filing of the claim petition were that Kuppan was standing on the left side of the road near Taluk Office at Velur, when a motorcycle bearing Registration No.TN-28-AB-1297, dashed against him and caused an accident. It was the case of the respondent that Kuppan was crossing the road and at that time the accident has occurred. Due to the accident, Kuppan sustained injuries on his head, legs and all over the body and first took treatment in Namakkal Government Hospital and later was shifted to Coimbatore Government Hospital and then he was again shifted to Namakkal Government Hospital. He died on the way to hospital.



3. The deceased Kuppan was aged about 52 years and was working as a Village Assistant and earning a sum of Rs.7,350/- per month. Seeking compensation for the death of Kuppan his legal representatives filed M.C.O.P.No.225 of 2011.

4. The respondents stated that the deceased Kuppan was careless while crossing the road and that was the reason for the accident.

5. The parties were invited to grace the witness box and adduce evidence.

6. The first point which the Tribunal took up for consideration was with respect to the negligence aspect and on this ground, the Tribunal had examined Ex.P1, which was the copy of the First Information Report and Ex.P2, which was the Motor Vehicles Inspector report. It was found that the nature of the accident was so severe, that Kuppan had sustained injuries on his head, legs and all over the body. The motorcycle had dashed against him while going at a high speed and when he was standing near the Taluk Office. He fell down and suffered with injuries all over his body including head. In view of the evidence adduced, the Tribunal determined that the accident occurred only due to the rash and negligent driving of the motorcycle. I would affirm that particular finding.

7. Thereafter, the Tribunal had proceeded to determine the compensation to be granted. The deceased was aged about 52 years and was working as a Village Assistant. He was earning Rs.7,350/- per month. Ex.P.10 is the salary certificate of the deceased and Ex.P.12 is the pay statement of the deceased Kuppan. In view of those documentary evidence, the salary of Kuppan was taken at Rs.7,688/- since evidence was produced and it was rounded up to Rs.7,690/- by the Tribunal. Taking into account that he would have 6 years remaining in service, the total income for six years was determined on Rs.7,690/- x 12 x 6 = Rs.5,53,680/-. The Tribunal deducted 1/3rd of the income towards personal expenses and after that deduction the income came to Rs.3,69,120/-. The Tribunal adopted a multiplier "9" and taking into consideration the income of Rs.3,000/- as per schedule and arrived at a sum of Rs.2,16,000/-. The total compensation was determined at a sum of Rs.3,69,120 + Rs.2,16,000/- = Rs.5,85,120/-. Towards loss of love and affection, a sum of Rs.10,000/- was determined for all the petitioners and towards funeral expenses, a sum of Rs.5,000/- and towards loss of consortium to the 1st respondent, a sum of Rs.10,000/-, towards medical expenses though Ex.P.3 reflect a sum of Rs.2,26,718/- was incurred, in view of the absence of prescriptions and medical reports, the Tribunal had taken into account, a sum of Rs.1,00,000/-. The total compensation granted by the Tribunal was Rs.7,10,120/-.



8. I have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and I would uphold the compensation granted by the Tribunal. It is just and fair and requires no interference by this court.

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9. I am informed that the compensation granted is yet to be deposited. The award now granted is Rs.7,10,120/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit. The Appellant is directed to deposit the award, now determined by this Court, along with interest and costs, 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.No.225 of 2011, on the file of the Motor Accident Claims Tribunal - Principal District Court, Namakkal, failing which respondents can file Execution Petition. On such deposit, the respondents are permitted to withdraw the amount equally, now awarded by this Court as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, as awarded by the Tribunal by making necessary applications before the Tribunal. The Tribunal had granted apportionment and it would remain the same.

10. With the above observations, this Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

mp/sp

To

The Motor Accident Claims Tribunal,
Principal District Judge,
Namakkal.

Copy To

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

+1cc to M/s.Law Vision, Advocate Sr.No.20279

+1cc to M/s.Zeenath Begum, Advocate Sr.No.20276

CMA.No.1854 of 2017

PL(CO)

RVM(15/06/2022)