



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.1960 of 2015

1.M.Meenakchi
2.Manoharan

... Appellants/Petitioners

Vs.

1. Pisces Cargo Pvt. Ltd., Chennai,
No.39, Sidco Industrial Estate,
Ekkatuthangal, Chennai – 91.
2. ICICI Lombard General Ins. Co. Ltd.,
Chennai – 93.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree made in M.C.O.P.No.743 of 2011, dated 04.03.2015, on the file of the Motor Accidents Claims Tribunal, (III Additional District Court), Poonamallee.

For Appellants : Mr.K.Varadhakamaraj

For R2 : Ms.R.Sreevidhya



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C.M.A.No.1960 of 20



J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.743 of 2011, for enhancement of compensation awarded by the Motor Accident Claims Tribunal, III Additional District Judge, Poonamallee, dated 04.03.2015, wherein, the Tribunal has awarded a sum of Rs.7,20,000/- as compensation with interest at the rate of 7.5% per annum from the date of numbering of Claim Petition till the date of realization.

2. The parties are referred to hereunder according to status and ranking before the Trial Court.

3. According to the claimants, on 17.06.2011 at about 08.30 p.m., while the petitioners' daughter namely Jipyah Devi was travelling as a pillion rider in the motorcycle which was driven by her friend bearing registration No.TN 05 AJ 7117 at V.M Street, turned from North to South direction, at that time, a Van bearing registration No.TN 22 AM 5117 came in the opposite direction with rashly and negligent manner and hit against the motorcycle and the motorcycle was trapped under the van, she suffered fatal injuries and died at the hospital, despite intensive treatment. Hence, the



petitioners/claimants filed the Claim Petition, claiming a sum of Rs.25,00,000/- as compensation for the death of their daughter-Jipyadevi.

4. The respondents who is the owner and the Insurance Company of the Van filed counter affidavit and denied all the averments made by the claimants and contended that due to the negligent act of the driver of the motorcycle, the accident occurred and that the owner or the Insurance company is not liable to pay compensation. The claimants have to prove the age, income, avocation and the legal heirs of the deceased. In any event, the quantum of compensation claimed by the claimants is highly excessive and prayed for dismissal of the Claim Petition.

5. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 was examined and Exs.P1 to P15 were marked. On the side of the respondents, R.W.1 to R.W.5 was examined and Exs.R1 to R28 were marked.

6. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the Van belonging to first respondent and directed the



second respondent-Insurance Company to pay a sum of Rs.7,20,000/- as compensation to the claimants at the first instance and recover the same from the first respondent-owner of the Van. The Tribunal has awarded compensation on the following heads:

For Loss of income a sum of Rs.4,05,000/-; For Mental Agony a sum of Rs. 1,00,000/-; For Funeral Expenses a sum of Rs.15,000/-; For Pain and Sufferings a sum of Rs.1,00,000/- each, in all, a total compensation was arrived at Rs.7,20,000/-.

7. Aggrieved over the quantum fixed by the Tribunal, the appellants/claimants filed this appeal seeking enhancement of compensation.

8. Learned counsel for the appellants/claimants submitted that the Tribunal has failed to fix the notional income according to the educational qualifications, since the deceased was I year student at Ragas Dental College and prior to joining the Dental College, she had completed Diploma Course in Training combined her educational qualification, the quantum needs to be revised. Further, he prays for granting future prospects on the basis of Judgment of the Hon'ble Apex Court in *National Insurance Company Ltd.,*



vs. *Pranay Sethi and Others* reported in **2017 (16) SCC 680**, and prays to fix the proper multiplier as per the Judgement of the Hon'ble Supreme Court in ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in **AIR 2009 SC 3104**.

9. Learned counsel appearing for the second respondent/Insurance Company would oppose the revision of compensation on the ground that the claimants have failed to prove the educational qualifications and other connected records, by examining the person who issued Certificates and she fairly admits that future prospects has not been added and applicable multiplier to the deceased is '18'.

10. I have considered the submissions on both sides and also perused the materials placed on record.

11. The claimants, by examining the mother of the deceased have marked Ex.P11 to P14, Certificates relating to educational qualifications of the deceased. Ex.P13 is the Certificate of Training issued by the Apollo Computer Education Limited, wherein, it is certified that the deceased was



completed the course of Master in Multi Media Designer and Editor. Ex.P14 is the Educational Certificates relating to XII Standard and she has successfully completed the course in the year 2010. Ex.P11 is the Certificate issued by the Frankfinn Institute of Air hostess Training and certified that the deceased was successfully completed Air hostess Training co-ordinating with Jet Airways. Ex.P9 is the Certificate issued by the Principal of the Ragas Dental College and Hospital, Chennai, certifying that she is a student of Bachelor of Dental Surgery Course for the academic year 2010-2011. The above documents supports the case of the claimants that the deceased was a bright student has stepped into various fields in order to succeed in her career. The Tribunal based on the above documents has fixed a sum of Rs.7,000/- as notional income of the deceased and this Court is of the view that the notional income has to be revised based on the educational qualification of the deceased. Accordingly, the notional income of the deceased is fixed as Rs.9,000/- per month and as per the Judgment of the Hon'ble Supreme Court in *National Insurance Company Ltd., vs. Pranay Sethi and Others* case cited supra, 40% future prospects to be included and as per *Sarla Verma and Others vs. Delhi Transport Corporation and Another* cited supra, proper multiplier applicable is '18'. Accordingly, the



following calculations are made: $[9000 + 3600 (40\% \text{ of } 9000) = 12600 \times 12$
 $(12 \text{ months} \times 18 \text{ multiplier} \times 1/2 \text{ personal expenses} = 13,60,800]$. The total
 loss of income arrived at Rs.13,60,800/-. The claimants are entitled a total
 compensation of a sum of Rs.14,73,800/- which is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	Rs.4,05,000/-	Rs.13,60,800 /-	Enhanced
2.	Mental Agony	Rs.1,00,000/-	---	Rejected
3.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Pain and Sufferings to each Rs.1,00,000/-	Rs.2,00,000/-	---	Rejected
5.	Loss of Estate	---	Rs.15,000/-	Granted
6.	Parental Consortium to each Rs.40,000/-	---	Rs.80,000/-	Granted
	Total Compensation	Rs.7,20,000/-	Rs.14,70,800/-	Enhanced by Rs.7,50,800/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.7,20,000/- is hereby enhanced to Rs.14,70,800/- [Rupees Fourteen Lakhs Seventy Thousand and Eight Hundred only] together with interest at the rate of 7.5% per annum from the date of numbering of Claim Petition till the date of



deposit. The second respondent/Insurance Company is directed to 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 six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.743 of 2010, on the file of the Motor Accidents Claims Tribunal, III Additional District Judge, Poonamallee. On such deposit, the appellants/claimants are entitled to withdraw the amount, now awarded by this Court along with interest and costs, as per the proportionment fixed by the Tribunal, less the amount if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimants. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

07.07.2023

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Index : Yes / No

Speaking Order: Yes / No

Neutral Citation Case : Yes/No



To

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

C.M.A.No.1960 of 20





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