



C.M.A.No.3518 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.3518 of 2012

1. M.Manokaran

2. M.Parimalam

... Appellants/Petitioners

Vs.

1. R.Mohanrasu

2. K.Sivagami

3. National Insurance Co., Ltd.,

66, Perundurai Road,

Erode.

4. K.Thulukkanam

5. B.Rajendran

6. Royal Sundaram Alliance Insurance

Company Ltd.,

Chennai-600 014.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 21.11.2005 made in M.C.O.P.No.1198 of 2003 on the file of the Motor Accidents Claims Tribunal, Principal District Judge at Erode.

For Appellants : Mr. V. Balamurugane

For RR1, 2, 4 & 5 : Dispensed with

For R3 : Mr. K. Padmanabhan



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JUDGMENT

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The Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.1198 of 2003, aggrieved over the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Principal District Judge, Erode, wherein, the Motor Accidents Claims Tribunal has awarded a sum of Rs.1,70,000/- as compensation to the claimants for the death of M.Sieman @ Ramu in the accident taken place on 23.06.2003.

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

3. The case of the claimants is that on 23.06.2003 at about 4.30 a.m., the deceased Sieman @ Ramu was travelling in the goods Van bearing Registration No.TN 74 B 5760 driven by the first respondent, from Erode -Tuticorin, while the van was reached near cross road at Tuticorin-Ettaiyapuram Main Road, the driver of the van driven in a rash and negligent manner, hit against the lorry bearing Registration No.TN 32 V 7999 which was going in front of the van and due to which, the deceased



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sustained severe head injuries and died on the spot. A case was registered by the Ettaiyapuram Police against the driver of the goods Van in Crime No.56 of 2003 under Sections 279, 338 and 304-A IPC. Hence, the petitioners filed Claim Petition claiming compensation for a sum of Rs.10,00,000/- for the death of the deceased Sieman @ Ramu.

4. The first respondent – driver, the second respondent – owner of the goods van and respondents 4 and 5 who are the driver and owner of the lorry remained ex-parte before the Tribunal.

5. The third respondent is the insurer of the goods van contested the case and filed counter contended that the accident was occurred only due to the rash and negligent driving of the driver of the lorry and that the driver of the goods van is not responsible for the accident. The petitioners have to prove the age, avocation and income of the deceased. In any event, the compensation claimed before the Tribunal is on the higher side and prays to dismiss the Claim Petition.



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6. The sixth respondent filed counter and contended that the petitioners themselves have admitted that the accident occurred only due to the rash and negligent driving of the first respondent and the respondents 4 to 6 are added as a formal parties, hence liability cannot be fasten against the sixth respondent and the Ettaiyapuram police have registered a case only against the driver of the goods van and the sixth respondent is not liable to pay the compensation. Hence he prays to dismiss the petition.

7. Before the Tribunal, the claimants examined P.W.1 and P.W.2 and Exs.P1 to P9 were marked. On the side of the second and sixth respondents-Insurance Companies no witness examined and no documents marked.

8. Based on the evidence adduced, the Tribunal in Point No.1 has held that the accident occurred only due to the rash and negligent driving of the driver of the van, the first respondent. In Point No.2, the Tribunal has awarded a sum of Rs.1,70,000/- as compensation to the claimants. In Point No.3 the Tribunal has held that the respondents 2 and 3



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are jointly and severally directed to deposit the compensation amount with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment and the first claimant who is the father of the deceased is entitled to Rs.50,000/- and the second respondent who is the mother of the deceased is entitled to Rs.1,20,000/- as compensation for the death of the deceased.

9. The claimants have filed this appeal on the grievance that the compensation awarded for the death of the deceased son is on the lower side and prays the enhancement of compensation.

10. The learned counsel for the appellants submitted that the Tribunal has not applied multiplier method in awarding compensation for the loss of income and failed to add future prospects and loss of consortium in the award, and prays to revise the award passed by the Tribunal.

11. The learned counsel for the Insurance Company submitted that on the basis of evidence placed on record, the Tribunal has granted total



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amount of compensation of Rs.1,70,000/- was awarded and no need for revision of the same and there is no evidence placed on record for proving the income of the deceased and hence prays to dismiss the petition.

12. The Tribunal has considering the age of the deceased as 22 years, was working as Quality Controller, Fashion Field Company, fixed notional income at Rs.2,000/- and he was a bachelor, deducted 1/3rd as the personal expenses of the deceased. The accident is of the year 2003 and this Court consistently followed the fixation of notional income for the accident during the year 2003, considering the age, a sum of Rs.2,500/-. The Tribunal has wrongly applied multiplier as '10' and also the Tribunal has not granted any amount as future prospects and awarded compensation. This Court considering the age of the deceased by following Judgment of the Hon'ble Apex Court in ***Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and Another*** reported in **2009 (6) SCC 121**, the applicable multiplier is '18' and the Judgement of the Hon'ble Apex Court in ***National Insurance Co. Ltd., vs Pranay Sethi and Others*** reported in **2017 (2) TNMAC 609 (SC)**, the future prospects applicable is 40%. Accordingly, the



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loss of income is arrived after deducting $\frac{1}{3}$ rd for personal expenses of the deceased since the claimants herein are two in number calculated as Rs.5,03,928/- $[2500 + 1000 (40\% \text{ of } 2500) = 3500 - 1167 (\frac{1}{3} \text{ of } 3500) = 2333 \times 12 \times 18]$.

13. The Tribunal has not awarded compensation for loss of consortium to the claimants and this Court is inclined to grant a sum of Rs.40,000/- each to the claimants and accordingly, a sum of Rs.80,000/- $[40000 \times 2]$ is granted under the head Loss of Consortium. The Tribunal has also not awarded compensation under the head loss of Estate and this Court is inclined to grant a sum of Rs.15,000/- under the head Loss of Estate. The Tribunal has awarded a sum of Rs.10,000/- for the head funeral expenses of the deceased and this Court is inclined to enhance the same at Rs.15,000/- under the head Funeral Expenses.

14. Thus, the compensation awarded by the Tribunal is modified as follows:



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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.1,60,000/-	Rs.5,03,928/-	Enhanced
2.	Funeral Expenses		Rs.15,000/-	Granted
3.	Loss of Estate	Rs.10,000/-	Rs.15,000/-	Enhanced
4.	Loss of consortium to both mother and father of the deceased each Rs.40,000/-.	----	Rs.80,000/-	Granted
	Total	Rs.1,70,000/-	Rs.6,13,928/-	Enhanced by Rs.4,43,928/-

15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.1,70,000/- is hereby enhanced to Rs.6,13,928/- [Rupees Six Lakhs Thirteen Thousand Nine Hundred and Twenty Eight only] together with interest at the rate of 7.5% per annum from the date of Claim Petition till the date of deposit. The third 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.1198 of 2003, on the file of the Motor Accidents Claims Tribunal, Principal



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District Judge, Erode. 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 apportionment fixed by the Tribunal, less the amount if any, already withdrawn, without making any formal application. 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.

17.07.2023

ssi

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Erode.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



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K.RAJASEKAR,J.

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