



C.M.A.No.882 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.882 of 2013

1.D.Chithra
2.Minor Sharmiladevi
rep. by mother and natural guardian
D.Chithra

... Appellants

Vs.

1.N.Dayalan
2.United India Insurance Company,
38, Anna Salai,
Chennai – 2.

3.D.Udayaraj
4.K.Lakshmi

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.06.2005 made in M.C.O.P.No.976 of 2002 on the file of the Motor Accidents Claims Tribunal (Fast Track Court No.II), Chennai – 1.

For Appellants : Mr.A.Saravanan
For Respondents : R1 – NDW – Vide order dt.20/6/23
Mr.M.J.Vijaya Raghavan for R2
R3 and R4 – NRN



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J U D G M E N T

The respondents 3 and 4 before the Motor Accidents Claims Tribunal are the appellants herein. This appeal has been filed seeking to set aside the order dated 27.06.2005 passed by the Motor Accidents Claims Tribunal (Fast Track Court No.II), Chennai, in M.C.O.P.No.976 of 2002.

2.The brief facts of the case is that on 29.08.1999 at about 15.30 hours, the deceased K.Devaraj @ Devan was travelling as a pillion rider in a motorcycle bearing Registration No.TN04Y 6104 in Kannan Street, Korukupet from North to South direction. At that time, the driver of the mini lorry bearing Registration No.TN 04 C 0709 owned by the first respondent came in a rash and negligent manner and dashed the motorcycle from behind, due to which, the deceased lost his life. The appellants herein are the wife and daughter of the deceased respectively. The third respondent is the son of the deceased and the fourth respondent is the mother of the deceased.

3.Thereafter, the dependants of the deceased/ respondents 3



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and 4 filed claim petition before the Motor Accidents Claims Tribunal,

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claiming compensation of Rs.25 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.9,36,000/- as compensation to the claimants/ respondents 3 and 4 and respondents 3 and 4 therein/ appellants with interest at the rate of 9% p.a. from the date of petition i.e., 12.12.2001 till the date of deposit and directed the respondents 1 and 2 to jointly and severally pay the compensation. Aggrieved by the same, the appellants have filed this appeal questioning the apportionment made by the Tribunal and for enhancement of compensation.

4.The learned counsel appearing for the appellants submitted that the Tribunal has not awarded any amount for future prospects and the amount awarded is also very meagre and the apportionment made by the Tribunal is also not proper and prayed for enhancement in compensation and to apportion the compensation among the legal heirs in a proper manner.

5.The learned counsel appearing for the second respondent Insurance Company submitted that at the time of death the deceased



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was aged 35 years and as per the decision of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others [MANU/SC/1366/2017]*** the multiplier to be adopted is 16, however, the Tribunal adopted the multiplier 17 while awarding compensation and the amount awarded under the other heads are just and reasonable.

6. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent Insurance Company. Though the appeal has been filed during the year 2013, till date, the appellants have not taken any steps to serve notice on the respondents 3 and 4/ claimants. Considering the pendency of the appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

7. The facts in the present case is not in dispute. Admittedly, on 29.08.1999 at about 15.30 hours, the deceased K.Devaraj @ Devan was travelling as a pillion rider in a motorcycle in Kannan Street, Korukupet from North to South direction. At that time, the driver of the mini lorry owned by the first respondent came in a rash and negligent manner and dashed the motorcycle from behind, due to



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which, the deceased lost his life.

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8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.8,16,000/- for loss of income, Rs.5,000/- for funeral expenses, Rs.25,000/- each for love and affection to the second appellant and respondents 3 and 4, Rs.40,000/- for loss of consortium to the first appellant. In total a sum of Rs.9,36,000/- was awarded as compensation, out of which, the third respondent was awarded Rs.2,50,000/-, the fourth respondent was awarded Rs.2,00,000/-, the first appellant was awarded Rs.2,36,000/- and the second appellant was awarded Rs.2,50,000/-.

9.The appellants have filed this appeal questioning the quantum of compensation awarded by the Tribunal and the apportionment made by the Tribunal and is not questioning the negligence aspect.

10.The deceased was aged 35 years at the time of death. As per the decision of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** [MANU/SC/1366/2017] the correct multiplier to be adopted is 16. This Court is of the opinion that the Tribunal has rightly fixed the



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monthly salary as Rs.6,000/- and has rightly deducted 1/3 towards

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personal expenses. Hence, by adopting the multiplier 16, the actual loss of income works out to Rs.7,68,000/- [Rs.4,000/- X 12 X 16 = Rs.7,68,000/-]. This Court is of the opinion that some amount has to be awarded for future prospects, for loss of estate and transportation charges. Accordingly, this Court awards 40% of actual loss of income for future prospects, which comes to Rs.3,07,200/- [40% of Rs.7,68,000/- = Rs.3,07,200/-], a sum of Rs.15,000/- for loss of estate and a sum of Rs.10,000/- for transportation charges. The amount awarded under the heads funeral expenses and loss of consortium to the first appellant are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for funeral expenses is enhanced to Rs.10,000/- from Rs.5,000/- and the amount awarded for loss of consortium to the first appellant is enhanced to Rs.50,000/- from Rs.40,000/-. However, the amount awarded for love and affection to the second appellant and respondents 3 and 4, in the opinion of this Court is just and reasonable and the same is confirmed. The interest awarded by the Tribunal i.e., 9% p.a. is high and the same is reduced to 7.5% p.a.



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11. Accordingly, the compensation amount is re-assessed as

follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.8,16,000/-	Rs.7,68,000/-
2.	Funeral Expenses	Rs. 5,000/-	Rs. 10,000/-
3.	Love and affection	Rs. 75,000/-	Rs. 75,000/-
4.	Loss of consortium	Rs. 40,000/-	Rs. 50,000/-
5.	Transportation charges	---	Rs. 10,000/-
6.	Future prospects	---	Rs.3,07,200/-
7.	Loss of estate	---	Rs. 15,000/-
	Total	Rs.9,36,000/-	Rs.12,35,200/-

12. The appellants and claimants/ respondents 3 and 4 are entitled to total compensation of Rs.12,35,200/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, out of which, the first appellant is entitled to a sum of Rs.4,35,200/-, the second appellant and the third respondent are entitled to a sum of Rs.3,00,000/- each and the fourth respondent is entitled to a sum of Rs.2,00,000/-. The second respondent Insurance Company shall deposit the modified/ enhanced award amount with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.



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13.The civil miscellaneous appeal is allowed. The judgment and decree dated 27.06.2005 made in M.C.O.P.No.976 of 2002 by the Motor Accidents Claims Tribunal (Fast Track Court No.II), Chennai – 1, is modified to the above extent.

14.The Insurance Company is directed to deposit the modified/enhanced award amount before the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. The Insurance Company is permitted to withdraw the excess amount, if any, already deposited by them.

15.On such deposit being made, the first appellant and the respondents 3 and 4 are permitted to withdraw their respective shares as apportioned by this Court, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The second appellant is permitted to withdraw her share as apportioned by this Court, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to her majority. If the second appellant is still minor, her share shall



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be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until she attain majority and the interest derived from out of the said share of the minor shall be paid to the first appellant/ mother every quarter to be utilized for the welfare of the said minor.

16.The appellants are not entitled to any interest for the period of delay, if any, in filing the appeal. The appellants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal (Fast Track Court No.II), Chennai - 1, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants.

17.The civil miscellaneous appeal is allowed. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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1.The Motor Accidents Claims Tribunal,
(Fast Track Court No.II), Chennai – 1.

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M.DHANDAPANI,J.
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