IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 981 of 2023

1.Malathi
2.Manimegalai
3.Saravanan ... Appellants

Vs.

Managing Director,
Metropolitan Transport Corporation,
Chennai-2 ... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 03.02.2016 made in MACT.OP.No.280 of 2013 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee

For Appellants : M/s.A.Subadra
For Respondent : Mr.Vinothraj

JUDGMENT

This appeal is preferred against judgment and decree dated 03.02.2016 passed in MACT.OP.No.280 of 2013 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee. The claimants in the original petition have filed this appeal seeking enhancement of compensation.

2. On 24.03.2013, one Mr.Ramachandran was walking on the GST road, when the respondent bus driver who was driving the bus in a rash and negligent manner, hit Mr.Ramachandran causing fatal injuries and killing him instantly on the spot. The deceased was a driver by profession and was employed in a private company and was drawing a salary of Rs.10,000/- per month. The claimants filed the claim petition claiming Rs.10,00,000/- as compensation. The respondent / Transport Corporation filed a counter denying the negligence and the quantum of compensation claimed by the claimants. The third claimant examined himself as PW1. On the side of the respondent, one witness was examined and no documents were marked. The Claims Tribunal, on assessment of the entire evidence on record, found that the driver of the first respondent / Corporation was negligent and awarded a compensation of Rs.10,00,000/-. Not satisfied with the compensation awarded, the claimants have filed the above appeal.

3. The short point for consideration in this appeal is what would be the just and fair compensation awardable the claimants?

4. The learned counsel for the appellants submitted that the Claims Tribunal failed to add 25% of the income towards future prospects of the deceased and that

the same is against the judgment rendered by the Hon'ble Supreme Court of India in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***. The counsel therefore submitted that the award of the Claims Tribunal needed to be interfered with and enhanced.

5. The learned counsel for the respondent, on the other hand, submitted that the award was just, fair and reasonable and did not call for any interference.

6. I have heard both the counsels on record and perused the materials placed before me.

7. The Hon'ble Supreme Court of India in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680,*** held as follows :-

> *"57. Section 168 of the Act deals with the concept of "just compensation" and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an*

individual case. The conception of "just compensation" has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, "just compensation". The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in Sarla Verma (supra) and it has been approved in Reshma Kumari (supra). The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the Courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the Courts is difficult and hence, an endeavour has been made by this Court for standardization which in its ambit includes addition of future prospects on the proven income at present. As far as future *prospects are concerned, there has been standardization keeping in view the principle of certainty, stability and consistency. We approve the principle of "standardization" so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age."*

In the instant case, the deceased was a driver in a private company and earning an income of Rs.10,000/- (Rupees ten thousand only) per month. He was 48 years old and he was the sole breadwinner of the family of three members. Keeping these facts in mind, the just compensation is arrived at. The Hon'ble Supreme Court in Pranay Sethi' case has standardised the future prospects.

8. In the light of the judgment of the Hon'ble Supreme Court of India in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680,*** the contention of the learned counsel for the appellants that 25 % of the income is to be added towards future prospects is accepted and the award of the Tribunal towards loss of income is modified as follows:

(Rs.10,000/- + 25%) = Rs.12,500/-
Rs.12,500 x 1/3 = Rs.4166/-
Monthly income is assessed as (12,500-4166) Rs.8,334/-.
Loss of income = 8334x12 x13= Rs.13,00,104/-, rounded to Rs.13,00,000/-

9. The learned counsel for the appellants further submitted that the award towards transport charges and damage to clothes may be converted into loss of estate and Rs.10,000/- may be granted for the same. The counsel submitted that the award towards loss of consortium was fixed at Rs.15,000/-, which is against the above judgment of the Hon'ble Supreme Court of India. The submissions of the learned counsel are accepted as the same are reasonable and justified.

10. In the light of the above said submissions, the award of the Tribunal is modified as follows:

S.No	***Various Heads***	***Awarded by the Tribunal***	***Awarded by this Court***
1.	Loss of income	Rs.10,40,000/-	Rs.13,00,000/-
2.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
3.	Transport charges	Rs.10,000/-	NIL
4.	Loss of Estate	NIL	Rs.15,000/-
5.	Livelihood	Rs.50,000/-	Rs.40,000/-
6.	Loss of love and affection	Rs.1,00,000/-	Rs.80,000/-
7.	Damages to clothes	Rs.2,000/-	NIL
	Total	Rs.12,17,000/- restricted to Rs.10,00,000/-	Rs.14,50,000/-

11. It is therefore held that the claimants shall be entitled to an enhanced compensation of Rs.14,50,000/- along with 7.5% interest. The counsel for the respondent submitted that the amount awarded by the Tribunal was already deposited along with accrued interest and costs. The respondent / Transport Corporation is therefore directed to deposit the balance amount of Rs.4,50,000/- along with accrued interest and costs, less the interest for the period of 2,423 days, within a period of eight weeks from the date of receipt of copy of this order. It is made clear that the enhanced amount of Rs.4,50,000/- will be paid to the share of the widow of the deceased and she shall be entitled to withdraw the said amount with interest on making proper application before the court upon deposit by the Transport Corporation.

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs in the present appeal.

28.04.2023

lok
Speaking Order: Yes/No

Index: Yes/No
Neutral Citation: Yes/No

N.MALA, J

lok

To
1.Motor Accidents Claims Tribunal,
II Additional District Judge,
Poonamallee

2.Managing Director,
Metropolitan Transport Corporation,
Chennai-2

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

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