



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2235 of 2014

Palaniammal (died)

1. S.Thulasimani

2. S.Raghuraman

.. Appellants/Claimants

Vs.

1. M/s.Cheran Spinner Ltd.,
1-A-3, Sankari Byepass Road,
Pallipalayam, Tiruchengode Taluk,
Namakkal District.

2. National Insurance Co. Ltd.,
Sankari Branch, Sankari, Salem District.

(notice to R1 may be dispensed with for the
time being since they were set ex-parte before
the Tribunal)

3. K.Selvaraj

4. The oriental Insurance Company,
Erode Branch, No.11, EVN Road,
Parimalam Complex, II Floor, Erode.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order made in MCOP.No.310 of 2008 on the file of the Motor Accident Claims Tribunal, Tiruchengode dated



11.03.2013 and for enhancement of compensation.

WEB COPY

For Appellant : Mr.C.Kulanthaivel
For Respondents : Mrs.N.B.Surekha R2
Mr.M.J.Vijayaraghavan R4
R3 Given up
R1 Ex-parte before the Tribunal

J U D G M E N T

This appeal has been filed by the appellants/claimants seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Tiruchengode vide order dated 11.03.2013.

2. The brief facts of the case are as hereunder :-

On 08.11.2000, at about 4.00 AM, when the deceased Subramaniam was travelling in a vehicle bearing Regn. No.TN-33-J-4899, along with his sons, driven by the 3rd respondent, the trucher jeep was proceeding towards veppadai from Sankari, the mini bus bearing registration No.TN 34 2515 belonging to the first respondent, driven by its driver, in a rash and negligent manner, dashed against the jeep, in which, the said Subramaniam and his son Raghuram sustained grievous injures. As a result of the accident, the said Subramaniam died on 10.11.2000. Alleging that the accident was due to



negligent driving of the driver of the mini bus, the appellants/claimants have filed a claim Petition before the Motor Accidents Claims Tribunal, Tiruchengode under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.20,00,000/- against the owner of the bus and its insurer and the same was taken on file in MCOP. No.310 of 2008.

3. Before the Tribunal, during trial, in order to prove the case of the claimants, they have examined three witnesses viz., P.W.1 and P.W.2 and marked 10 documents viz., Exs.P1 to P10. On the side of the respondents, no one was examined and no document was marked. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, has come to the conclusion that the accident occurred only due to negligent driving of the driver of the jeep and driving of the mini bus driver. As the third respondent's bus was insured with the second respondent insurance company and the jeep was insured with first respondent, the Tribunal held that the first and second respondents are liable to compensate the claimants. After considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.4,65,000.52/- as compensation to the claimants with interest at the rate of 7.5% per annum from the date of petition



till the date of realization.

WEB COPY

4. Aggrieved by the said award dated 11.03.2013, the appellants/claimants have filed this appeal before this Court for enhancement of the compensation.

5. The learned counsel appearing for the appellants/claimants submitted that the above interpolation in the documents have not been gone into in proper perspective by the Tribunal, while appreciating the documents, which have been placed by the claimants and, therefore, the compensation awarded by the Tribunal deserves to be set aside.

6. Learned counsel appearing for the claimants submitted that the income of the deceased has been erroneously fixed by the Tribunal. It is the submission of the learned counsel that though the deceased was earning a monthly income of Rs.20,000/-, however, the income of the deceased has been fixed at Rs.4,000/- by the Tribunal, which is wholly unreasonable.

7. It is the further submission of the learned counsel that no amount has



been given towards the future prospects of the deceased. It is the submission of the learned counsel that had the deceased lived his life, definitely he would have earned more for his family, considering the number of dependants and to that end, the Tribunal ought to have quantified the loss by taking future prospects into consideration.

8. The learned counsel for the second respondent Insurance Company would submit that the award amount passed by the Tribunal is excessive. Hence, the learned counsel prayed to dismiss the order of the Tribunal.

9. Heard the learned counsel for the appellants/claimants as well as the learned counsel for the respondent Insurance Company and also perused the materials available on record.

10. From the materials on record, it is seen that the driver of the jeep and the mini bus, driven the bus and jeep respectively, in a rash and negligent manner and due to which, the accident had occurred and one Subramaniam died.



11. As far as the quantum of compensation is concerned, at the time of the accident, the deceased was aged about 49 years, the multiplier to be applied in this case is "13". For the said multiplier and income, the compensation worked out is Rs.7,21,898.66/- rounded off to Rs.7,21,899/- (Rs.83,296/- X $\frac{2}{3}$ X 13 multiplier) towards loss of income. However, with regard to future prospects, no amount has been included by the Tribunal. The Constitution Bench of the Supreme Court in the case of ***National Insurance Co. Ltd. – Vs – Pranay Sethi & Ors. (2017 (16) SCC 680)***, has laid down that where the deceased is employed and falling within the age group of 40 to 50 years, future prospects at the rate of 30% ought to be included in the income of the deceased, while arriving at the income for the purpose of fixing the compensation. Therefore, the future prospectus is worked at Rs.1,08,283/- The tribunal awarded towards clothing and transportation is at Rs.3,000/- and Rs.1,000/-. Therefore, this Court awarded a sum of Rs.5,000/- towards clothing and transportation. The amounts awarded towards other heads are reasonable and hence, the same are confirmed.

12. The amount of compensation of Rs.4,65,000.52/- is enhanced to Rs.8,80,182.00/- under the following heads :-



WEB COPY

Sl.No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of earnings	4,16,000.52	7,21,899.00
2	Future prospects		1,08,283.00
2	Transport to hospital	3000.00	5000/-
3	Damage to clothing, wrist watch and articles	1000.000	
4	Medical expenses	10,000.00	10,000.00
5	Funeral Expenses	5,000.00	5,000/-
6	Compensation for pain and sufferings	10,000/-	10,000/-
7	Compensation of loss of love and affection and consortium	20,000/-	20,000/-
	Total	4,65,000.52	8,80,182/-

13. With the above modification, the appeal is allowed and the compensation awarded by the Tribunal at Rs.4,65,000.52/- is hereby enhanced to **Rs.8,80,182/-**, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced amount with interest, less the amount



already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their share of the award amount with interest and costs, as per the ratio of apportionment fixed by the Tribunal, by filing necessary applications before the Tribunal. No costs. In view of the order passed in the main case, there is no necessity arises for consideration in the miscellaneous petition filed along with this petition. Hence, the miscellaneous petition is dismissed.

05.10.2023

Index : Yes / No
Speaking Order : Yes/ No
rli

To

The Motor Accident Claims Tribunal, Tiruchengode



WEB COPY



M.DHANDAPANI.,J.

rli

C.M.A.No.2235 of 2014

05.10.2023