



CMA.No.2745 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.2745 of 2017

1. Padma
2. Munusamy(minor)
3. Selvi (minor) ... Appellants

vs.

1. M.K. And Sons
237, Main Road,
Mettupalayam-641 301.
2. United India Insurance Co.Ltd.,
Mettupalayam-641 301. ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and decree dated 02.01.2002 in M.C.O.P.No.920 of 2000 on the file of Motor Accident Claims Tribunal, Salem.

For appellant : Mr.K.Selvaraj

For respondents : R1-No such addressee



JUDGMENT

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Challenge in this appeal is made by the legal heirs of the deceased Rajendran in MCOP.No.920 of 2000 on the file of Motor Accident Claims Tribunal, Salem dated 02.02.2002 for enhancement of compensation.

2. Claim petition was filed under Section 166 of Motor Vehicles Act, 1978 for a claim of Rs.12,00,000/- for the death of Rajendran, who died in a road accident that occurred on 11.03.2000.

3. The learned Tribunal after hearing both sides and upon considering the oral and documentary evidence has passed an award for a sum of Rs.4,50,000/- fastening liability on the owner of the vehicle namely Tata Estate and its Insurance Company.

4. The learned counsel appearing for the appellants/claimants would vehemently argue that in order to prove the age of the deceased Rajendran, his transfer certificate Ex.P7 was filed wherein his date of birth is mentioned as 10.08.1960. However,the Tribunal has fixed the age of deceased as 45



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years based on the age details found in the Postmortem Certificate which is totally not correct. His Salary Certificate Ex.P.6 is filed. At the relevant point of time, he was working as a Helper in the Electricity Board. Income was not fixed as per the said salary details by the Tribunal. No amount was awarded for transport charges and prayed for enhancement.

5. The learned counsel appearing for the second respondent/Insurance Company would strenuously contend that based on the available records, the Tribunal has fixed the age of the deceased as 45 years and the compensation is arrived at Rs.4,50,000/-. Learned counsel submits that the award of the Tribunal is well founded one, needs no interference.

6. At trial, wife of the deceased Rajendran was examined as PW1 and one ocular witness Sathyanarayanan was examined as P.W.2 and Exs.P.1 to P.7 have been marked. Ex.P.2 is the Postmortem Certificate of the deceased. Ex.P.6 is the salary certificate of the deceased and copy of the transfer certificate of the deceased Rajendran is Ex.P.7. No oral evidence was let in by the respondent's side.

7. In order to prove the age of the deceased Ex.P.2 Postmortem



Certificate of the deceased is filed wherein his age is mentioned as 46 years.

Ex.P.7 is the transfer certificate of the deceased in which his date of birth is mentioned as 10.08.1960. So, Doctor fixed the age of the deceased only by observing the person. Whereas in the said school records most of the times date of birth is based on the relevant documents.

8. Comparatively, the school transfer certificate is a better proof with regard to the age of the deceased. The date of the accident is 11.03.2000. As per Ex.P.7 School transfer certificate of the deceased Rajendran date of birth is 10.08.1960. Therefore, at the relevant point of time his age is fixed as 41 years. The Hon'ble Supreme Court has standardized the multiplier details for different age groups. In ***Sarla Verma & Others Vs. Delhi Transport Corporation*** reported in ***2009 (2) TN MAC 1 (SC)*** for the age group of 41 to 45, the relevant multiplier is “ 14”. For the proof of salary of the deceased, his salary certificate for the month of February 2000 is marked as Ex.P.6. As per Ex.P.6, the gross salary is Rs.7256/- and his take home salary is Rs.3563/-. Components of pay is extracted here under:



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Pay	Rs.5070/-
Special Pay	--
Dearness Allowance	Rs.1876/-
House Rent Allowance	Rs. 270/-
Washing Allowance	Rs. 40/-
Isolated Locality Compensatory Allowance	Rs. -
Investigation O.C.A	Rs. -
Winter Allowance	Rs. -
OH Surrender Allowance	Rs. -
Total	Rs.7256/-

Net Amount Paid is Rs.3563/-. His basic pay was Rs.5,070/-, Dearness allowance was Rs.1876/- and House Rent Allowance was Rs.270/- and Washing allowance was Rs.40/-. His Gross Salary is Rs.7,256/-. Among the above said details washing allowance is only amount, for the benefit of the employee and not for the family. Therefore, for the purpose of computing the loss of dependency, income of the deceased is fixed at Rs.7256 -Rs.40/- =Rs.7216/- . With regard to the personal and living expenses, in the above said case, the Hon'ble Supreme Court has standardized the details.

9. The deceased had left behind his wife and minor children together three persons. Therefore, 1/3 of his income is to be deducted for his personal living expenses.



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10. With regard to future prospects, the Hon'ble Supreme Court has standardized the details in respect of the person in permanent job in ***National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 2 TN MAC 609 (SC)***, wherein, it has been held that for the persons who are aged between 42 and 50 years, 30% of the income to be added as future prospects while computing the monthly income. The age of the deceased is 41 years. Deduction to be made and hence $1/3^{\text{rd}}$ income is fixed as Rs.7216/- . Future Prospects to be added as 30%. Rs.7216/- + 30% = Rs.9,380/- (-) $1/3$ = Rs.6254/- Based on the above said details, loss of dependency, the formula emerges as follows: Loss of dependency is arrived at Rs.9380/- (-) $1/3$ deduction = Rs.6,254/-. Rs.6254/- x12x14 = Rs.10,50,672/-.

Age of the Deceased	: 41 years
Multiplier to be adopted	: 14 m
Monthly income fixed	: 6,254/-
Loss of Dependency	: Rs.6254/- x 12 x 14
	: Rs.10,52,672/-

11. That apart an amount of Rs.15,000/- is granted for loss of estate and an amount of Rs.1,10,000/- is granted for loss of Consortium to the wife and the children of the deceased in addition to the amount already granted. Rs.5,000/- is granted for Funeral Expenses in addition to the amount already



granted. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of dependency	Rs.4,20,000/-	Rs.10,50,672/-	Enhanced
2	For Loss of Love and Affection	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	For Funeral expenses	Rs.5,000/-	Rs.10,000/-	Enhanced
4	For Loss of Consortium	Rs.10,000/-	Rs.1,20,000/-	Enhanced
5	For Loss of estate	---	Rs.15,000/-	Granted
		Rs.4,50,000/-	Rs.12,10,672/-	
	Rounded off to		Rs.12,10,700/-	

The same is rounded off to Rs.12,10,700/-, out of which, wife of the deceased/first appellant is entitled to Rs.6,10,700/- and the son and daughter of the deceased/ 2nd and 3rd claimants are entitled to Rs.3,00,000/- each.

12. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.4,50,000/-** to Rs.12,10,700/- which would carry interest at the rate



of 7.5% per annum from the date of petition till the date of realisation.

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13. In the result,

(i) The Civil Miscellaneous Appeal is **partly allowed**. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.4,50,000/-** to Rs.12,10,700/-.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e.,Rs.12,10,700/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit to the credit of M.C.O.P.No.920 of 2000 on the file of the Motor Accident Claims Tribunal, Salem. , within a period of eight weeks from the date of receipt of a copy of this Judgment..

(iv) On such deposit being made, the 1st claimant is entitled to receive Rs.6,10,700/- and the 2nd and 3rd claimants are entitled to receive Rs.3,00,000/- each. The claimants are permitted to withdraw their shares



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along with interest and costs, less the amount if any already withdrawn, by making necessary cheque applications by the claimants before the Tribunal.

The claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

30.08.2023

Vv

To

1. The Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.



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R. KALAIMATHI,J.

Vv

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