



C.M.A.No.2457 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.02.2023

PRONOUNCED ON : 12.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2457 of 2018

S.Balu

... Appellant

vs.

1.The Managing Director,
Puducherry Road Transport Corpn. Ltd.,
No.4, Iyanar Koil Street,
Raja Nagar,
Pondicherry-605 013. (Set Exparte before the trial Court).

2.The United India Insurance Co. Ltd.,
No.134, Greams Road,
Chennai-600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 11.04.2018 made in M.C.O.P.No.4693 of 2014 on the file of the Motor Accident Claims Tribunal, / Special Sub Court No.1, Motor Accident Claims Petitions, Small Causes Court, Chennai.

For Appellant : Mr.T.G.Ravichandran

For Respondents : Mr.J.Michael Visuvasam [R2]



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JUDGMENT

The appellant herein who is the father of the deceased B.Vijay who died in a road accident that had taken place on 01.06.2014 has preferred this appeal for enhancement of compensation.

2. Judgment and Decree was passed on 11.04.2018 by the Motor Accident Claims Tribunal, Special Sub-Judge, No.1 (to deal with M.C.O.P cases), Chennai, fixing the compensation of Rs.11,43,400/- with interest at the rate of 7.5% per annum from the date of filing of petition till realisation.

3. The learned counsel for the appellant would contend that monthly income of the deceased fixed by the Tribunal is on the lower side, as he was working as a technical labour. He would further contend that the compensation awarded under the heads of loss of love and affection, funeral expenses and loss of estate are insufficient.

4. Per contra, the learned counsel for the Insurance Company would vehemently argue that though the income of the deceased was not proved, the Tribunal has fixed the monthly income of the deceased at Rs.7,000/- is reasonable which needs no interference.



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5. Heard the rival contentions put forth by the learned counsels of both sides and perused the entire material records.

6. The manner in which the accident occurred is not in dispute. The main grievance of the appellant who is the father of the deceased is that the monthly income fixed by the Tribunal at Rs.7,000/- per month is very meagre. With regard to this aspect, PW1, father of the deceased has stated that his son was aged about 18 years at the relevant point of time was working as a technical labour and earning Rs.15000/- p.m. On perusal of the case records, it appears that no proof was produced and marked to substantiate the said details. Neither in petition nor PW1's evidence reflects about the educational qualification of the deceased or nature of avocation. Had it been explained it would have been very helpful in arriving at the income of the deceased in a better way.

7. However, the learned Tribunal has fixed the income of the deceased at Rs.7,000/- p.m. Taking into consideration of the fact that the deceased was working as technical labour, it is reasonable to fix the income of the deceased at Rs.8,000/- p.m. There is no issue with regard to the multiplier adopted, future prospects and personal expenses. While calculating the income, for future prospects 40% to be added with the



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income as per the principles laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi and others***, reported in **2017 (2) TN MAC 609(SC)**.

8. After adding future prospects, monthly income comes to Rs.8,000/- + 40% of Rs.8,000/- = Rs.11,200/-. After deducting 50% of the income for personal expenses, as the deceased was a bachelor, it would come to Rs.5,600/-.

9. With regard to the loss of dependency, the following formula emerges :

Calculation

Notional Income = Rs.8,000/-

40% Future Prospects = Rs.3,200/-

Total = Rs.8,000/- + Rs.3,200/- = Rs.11,200/-

After deducting 50% = Rs.11,200 X 50% = Rs.5,600/-

Loss of Dependency

= Rs.5,600/- x 12 x 18

= Rs.12,09,600/-.



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10. Considering the age and income of the deceased, the amount awarded by the Tribunal, in respect of other heads, appears to be reasonable, therefore, it needs no interference. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Total Loss of Dependency	Rs.10,58,400/-	Rs.12,09,600/-	Enhanced
2	Loss of Love and Affection	Rs. 50,000/-	Rs. 50,000/-	Confirmed
3	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	Transport Charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
5	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
	Total	Rs.11,43,400/-	Rs.12,94,600/-	

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.11,43,400/- to **Rs.12,94,600/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

12. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.11,43,400/- to **Rs.12,94,600/-**.



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(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.12,94,600/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.4693 of 2014 on the file before the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accident Claims Petitions) Small Causes Court, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The claimant is directed to pay the 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.

12.04.2023

Index : Yes/No
Speaking / Non-speaking order
ssn



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To:

1. The Motor Accident Claims Tribunal,
(Special Sub Court No.1, Motor Accident Claims Petitions)
Small Causes Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

ssn

Pre-delivery Judgment in

C.M.A.No.2457 of 2018

12.04.2023