



C.M.A.(MD).No.558 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 08.11.2023

Delivered on: 13.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.M.A.(MD).No.558 of 2020

and

C.M.P.(MD)No.5854 of 2020

The Branch Manager,

United India Insurance Co.Ltd.,

Division Office, 2,Dr.Sankaran Road,

Namakkal.

... Appellant /2nd Respondent

Vs.

1.S.Geetha

... 1st Respondent / 1st Petitioner

P.U.Sasi (died)

... 2nd Petitioner in M.C.O.P

2.P.Ravichandran

... 2nd Respondent / 1st Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 25.11.2019, passed in M.C.O.P.No.40 of 2019, on the file of the Motor Accident Claims Tribunal – Fast Track Mahila Court – Additional District Judge, Karur.

For Appellant : Mr.G.Prabhu Rajadurai

For Respondents : Mr.N.Sudhagar Nagarajan for R1

: No appearance for R2



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JUDGMENT

P.B.BALAJI,J.

The Insurance Company, aggrieved by the award in M.C.O.P.No.40 of 2019, before the Motor Accident Claims Tribunal -Fast Track Mahila Court -Additional District Judge, Karur, is the appellant before us.

2. The claimants are the parents of the deceased, one Rahul, who died in a motor accident on 25.01.2015. The case of the claimants is that their son was aged about 23 years and was a final year B.E. (Mechanical Engineering) course and he was already been short listed and appointed in a very reputed Company with a salary of Rs.3,25,000/- p.a. It is also stated that the accident occurred because of the rash and negligent driving of the driver of the offending vehicle, which was insured with the appellant herein.

3. The appellant / Insurance Company filed a counter affidavit and resisted the said claim for compensation on the ground that the driver



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of the offending vehicle did not have any licence and moreover he was under the influence of Alcohol. It was therefore contended that the appellant was not liable to pay compensation to the claimants. The monetary claims were also stated to be high, arbitrary and exorbitant.

4. Before the Tribunal, the mother of the deceased was examined as P.W.1, medical officer from hospital, viz., Kesavamoorthy, who treated the deceased was examined as P.W.2, officer of the College, viz., Vigneswar, where the deceased was pursuing his final year was examined as P.W.3, occurrence witness one Jeyaprakash was examined as P.W.4 and 19 documents were marked as Ex.P1 to Ex.P19 on the side of the claimants. On the side of the respondents, 3 witnesses were examined as R.W.1 to R.W.3 and 5 documents were marked as Ex.R1 to Ex.R5.

5. The Tribunal, on the question of liability, found that though the appellant had stated in its counter that the driver of the offending vehicle did not possess a driving licence - Ex.R2 had been filed established that the driver did possess a driving licence. Further, the Tribunal also, from an overall appreciation of the oral evidence, especially that of P.W.4, the



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occurrence witness and Exs.P1, P3 and P5, namely F.I.R, rough sketch and charge sheet, came to the conclusion that it was the driver of the offending vehicle that had caused the accident and resulted in the death of the deceased Rahul - son of the claimants.

6. We have independently gone through the evidence of the occurrence witness, both chief as well as cross examination. We do not find anything to discredit the natural evidence adduced by P.W.4 and we, therefore, find no reason to interfere with the findings of the Tribunal insofar as the negligence and liability are concerned.

7. Coming to the question of quantum, the Tribunal fixed the notional income at Rs.3,25,000/- p.a, as the deceased had been selected in a campus interview. After deducting 1/3rd towards personal expenses of the deceased and after adding 50% towards future prospects and adopting multiplier of '18' and adding conventional charges, the Tribunal fixed the total at Rs.55,66,000/- as compensation.

8. The learned counsel for the appellant would contend that the



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Tribunal erroneously applied income at Rs.3,25,000/- p.a., without any basis as the deceased was only a final year student and it was only a letter of intent given to him for future employment and the same ought not to have been taken into account. Even towards future prospects, the Tribunal ought not to have fixed 50% and further, the deduction towards personal expenses ought to have been $\frac{1}{2}$ and not $\frac{1}{3}^{\text{rd}}$ since the deceased died as a Bachelor. The claim of Rs.2,00,000/- towards love and affection is also stated to be highly excessive and not in line with the decisions of the Hon'ble Supreme Court.

9. We have heard Mr.G.Prabhu Rajadurai, learned counsel for the appellant and Mr.N.Sudhagar Nagarajan, learned counsel for the respondent / claimant.

10. The learned counsel for the appellant would submit that the finding of the Tribunal with regard to negligence and liability of the appellant was totally unfounded and erroneous.

11. We have, however, found from the evidence of R.W.2 that



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the driver of the offending vehicle was admitted at the Government Medical College Hospital at Karur and he has marked Ex.R4-drunkenness certificate. Section 185 of the Motor Vehicles Act mandates a requirement of proving that the driver of any motor vehicle who was having alcohol, exceeding 30 mg per 100 ml in the blood, detected in a test by breath. The Tribunal has also rightly considered the fact that Ex.R4 did not contain any mention the driver of offending lorry had consumed alcohol, which was a fundamental requirement to charge the driver under Section 185 of the Motor Vehicles Act. Therefore, we do not find any justifiable reason to interfere with the said finding of the Tribunal that the appellant insurance company cannot escape from liability to compensate the deceased on the ground that the driver of the offending vehicle was under the influence of alcohol.

12. Coming to the question of quantum, the Tribunal has rightly appreciated the evidence of P.W.3 and Ex.P18 and Ex.P19 and came to the conclusion that the deceased's annual income of Rs.3,25,000/-. We also do not find any infirmity in the findings of the Tribunal. However, we find force in the submission of the learned counsel for the appellant that for a



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bachelor, the deduction towards personal expenses has to be $\frac{1}{2}$. The Tribunal has deducted $\frac{1}{3}^{\text{rd}}$, which requires interference. The Tribunal awarded Rs.71,000/- towards medical and transport expenses, as per Ex.P14 and Ex.P15, which is reasonable. Even in respect of future prospects, as rightly contended by the appellant 40% in view of the decision of the Hon'ble Supreme Court in **Pranay Sethi's** case. In all other respects, we do not find any grounds to interfere with the award of compensation under the heads.

$$\begin{aligned} \text{Loss of income} &= \frac{\text{Rs.3,25,000}}{2} = [\text{Rs.1,62,500/-} + 40 \% (\text{Rs.65,000/-})] \times 18 \\ &= \text{Rs.40,95,000/-} \end{aligned}$$

13. The Tribunal awarded Rs.2,00,000/- towards loss of love and affection, which is highly excessive. We have applied the ratio laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case to the facts of the present case. The funeral expenses, loss of love and affection and loss of estate should be enhanced once in every three years at 10%. Since the above judgment is of the year 2017, from 2017- 2020, 10% should be



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enhanced, ie. from Rs.40,000/- to Rs.44,000/- towards loss of love and affection, from Rs.15,000/- to Rs.16,500/- each towards funeral expenses as well as loss of estate and from 2020- 2023, another 10% should be enhanced ie. Rs.44,000/- to Rs.48,400/- towards loss of love and affection, from Rs.16,500/- to Rs.18,150/- each towards funeral expenses as well as loss of estate. In view of the above discussion, the compensation is reworked in the manner hereunder:

Head	Awarded by the Tribunal	Awarded by this Court	Enhanced/ reduced/ confirmed
1. Loss of income	Rs. 52,65,000/-	Rs. 40,95,000/-	Reduced
3.Loss of love& affection	Rs. 2,00,000/-	Rs. 48,400/-	Reduced
4.Loss of estate	Rs. 15,000/-	Rs. 18,150/-	Enhanced
4.Funeral expenses	Rs. 15,000/-	Rs. 18,150/-	Enhanced
Medical & Transport expenses	Rs. 71,000/-	Rs. 71,000/-	confirmed
Total	Rs. 55,66,000 /-	Rs. 42,50,700/-	Reduced

14. In fine, the Civil Miscellaneous Appeal stands partly allowed and the award, dated 25.11.2019, passed in M.C.O.P.No.40 of 2019, on the file of the Motor Accident Claims Tribunal – Fast Track Mahila Court – Additional District Judge, Karur, is hereby modified and the



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compensation is reduced from Rs. 55,66,000 /- to Rs. 42,50,700/-.

15. The appellant / Insurance Company is directed to deposit the modified award amount of Rs.42,50,700/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, and costs awarded by the Tribunal, less the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. Excess amount, already paid if any, shall be refunded to the appellant / Insurance Company.

16. On such deposit being made, the first respondent / claimant is permitted to withdraw the entire award amount, along with interest and costs as apportioned by this Court, less the amount if any already withdrawn by her, after filing appropriate application before the Tribunal. There shall be no order as to costs in the present appeal. Consequently, connected Miscellaneous Petition is closed.

(T.K.R.J.) & (P.B.B.J)
13.12.2023

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No



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- 1.The Motor Accident Claims Tribunal –
Fast Track Mahila Court - Additional District Judge,
Karur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI,J

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Pre-delivery judgment in
C.M.A.(MD).No.558 of 2020

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