IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1679 of 2023

1. G.Subbulakshmi
2. J.Vasantha
3. G.Baskaran
4. R.Kalaiyarasi
5. R.Anbarasi
6. T.Bhuvaneswari ... Appellants

vs.

1. R.Muruganandam
2. United India Insurance Co. Ltd.,
   Siling Building, Hub,
   No.134, Greams Road,
   Chennai - 600 006. ...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 30.03.2021 in M.C.O.P.6875/2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.III, Small Causes Court, Chennai.

For Appellants : Mrs.A.Subadra for
Mr.A.Shanmugaraj

For R2 : Mr.R.Rajesh

J U D G M E N T

The appellants are the claimants in M.C.O.P.6875/2013 on the file of the Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.8,75,000/- for the death of one Govindan in a road accident which happened on 22.04.2012.

2. The brief case of the appellants / claimants is as follows :

On 22.04.2012, Govindan (deceased) was walking along Vilathikulam - Madurai Road and at about 9.15. p.m., a speeding car bearing Registration number TN-39-Y-1908 belonging to the first respondent came in a rash and negligent manner and hit Govindan, as a result of which, he sustained injuries all over his body. He was immediately rushed to the hospital, however, he succumbed to injuries on the same day.

3. According to the claimants, the rash and negligent driving of the driver of the car bearing Registration number TN-39-Y-1908 was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal, the first respondent, the owner of the vehicle remained absent and was set *exparte*. The second respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.6,59,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 30.03.2021.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mrs.A.Subadra, learned counsel appearing for the appellants and Mr.R.Rajesh, learned counsel for the second respondent.

8. Mrs.A.Subadra, learned counsel appearing for the appellants contended that the deceased Govindan was working as an accountant in

'Vidial Trust', earning a sum of Rs.6,000/- p.m. Apart from that, Govindan was also receiving pension of Rs.10,901/-p.m. Though the claimant filed a salary certificate, dated 12.08.2016 (Ex.P8) issued by the Trust, the Tribunal had failed to consider the same and fixed a meagre sum of Rs.5,455/- as his monthly notional income. She, therefore prayed for enhancing the notional income of the deceased.

9. Per contra Mr.R.Rajesh, learned counsel appearing for the second respondent, contended that the Award passed by the Tribunal is based on well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. A perusal of the passbook of Govindan (deceased) shows that he was receiving a sum of Rs.10,901/- towards his pension. Apart from this, he was working as an accountant in Vidial Trust as is seen from the Salary Certificate (Ex.P8). However, the person who issued the certificate (Ex.P8) has not been examined before the Tribunal. In the circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.10,000/- would meet the ends of justice. The deceased was aged 65 years on the date of the accident and therefore, he is not entitled to get future prospects as per the decision in ***National Insurance Co. vs Pranay sethi and others*** reported in ***2017 (2) TNMAC 601.*** Since there are more than four dependents, 1/4th of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 7 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121.***

Calculation :

Notional Income = Rs.10,000/-

After 1/4 deduction = Rs.7,500/-

Loss of dependency :

= Rs.7,500/- x 12 x 7

= Rs.6,30,000/-

In addition to that the claimants are entitled to Rs.2,40,000/- (40,000/- x 6), Rs.15,000/-, Rs.15,000/- and Rs.45,831/- towards Loss of Consortium, Loss of Estate, Funeral Expenses and Medical bills respectively as per the decision in ***National Insurance Co. vs Pranay sethi and others*** (cited supra). Thus, the claimants are entitled to a total compensation of

Rs.9,45,831/- (6,30,000 + 2,40,000 + 15,000 + 15,000 + 45,831 = 9,45,831) as shown in the following tabular column:

S.No.	***Head***	***Amount granted by this court***
1.	Loss of dependency	Rs. 6,30,000 /-
2.	Loss of consortium (Rs.40,000/- x 6)	Rs.2,40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
5.	Medical Bills	Rs.45,831/-
Total		Rs.9,45,831/-

11. The compensation awarded by the Tribunal is enhanced from Rs.6,59,500/- to Rs.9,45,831/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

i. The Civil Miscellaneous Appeal is allowed. No costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.6,59,500/- to Rs.9,45,831/-.

iii. The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

iv. The second respondent / United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.9,45,831/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.6875/2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.II, Small Causes Court, Chennai.

v. On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

23.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

R.HEMALATHA, J.

vum

To

1.The Motor Accidents Claims Tribunal,
Special Sub Court No.II, Small Causes Court,
Chennai

2.The Section Officer, VR Section,
Madras High Court, Chennai.

C.M.A.No.1679 of 2023

23.08.2024
(1/2)