IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.294 of 2024

1. Patroja
2. Karthik
3. Ramya
4. Ranjith ... Appellants

vs.

1. Narayanan C.N.

2. United India Insurance Company Limited,
   Silingi Building, Door No.134, No.1,
   Greams Road, Chennai - 6. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 26.07.2023 in M.C.O.P.341/2021 on the file of the Motor Accident Claims Tribunal, Special Sub Judge II, Court of Small Causes, Chennai.

For Appellants : Mrs.Ramya V.Rao

For R1 : Mr.S.G.Rameshkumar

For R2 : Mr.V.Dakshanamoorthy

J U D G M E N T

The appellants are the claimants in M.C.O.P.341/2021 on the file of the Motor Accident Claims Tribunal, Erode. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.40,00,000/- for the death of one Ramadoss (husband of the first claimant, father of the claimants 2 to 4) in a road accident that occurred on 24.11.2019.

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

On 24.11.2019, Ramadoss (deceased) was getting down from the bus at Pudu Edayur Kuppam bus stop and at that time, a speeding Maruti Zen car bearing Registration number TN 06 A 7862, hit him, causing his instantaneous death.

3. According to the claimants, the rash and negligent driving of the driver of the Maruti Zen car bearing Registration number TN 06 A 7862 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 owner of the vehicle remained absent and was set *exparte*. The second respondent, Insurance Company 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, vide its orders dated 26.07.2023, fastened negligence on the part of the driver of the car and directed the second respondent, the United India Insurance Company Limited to pay compensation of Rs.11,70,100/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal also held that the liability of the owner of the car and the insurer is joint and several.

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

7. Heard Mrs.Ramya V.Rao, learned counsel for the appellants, Mr.S.G.Rameshkumar, learned counsel for the first respondent and Mr.V.Dakshanamoorthy, learned counsel for the second Respondent.

8. Mrs.Ramya V.Rao, learned counsel appearing for the appellants contended that Ramadoss (deceased) was aged 59 years on the date of accident and was a fisher man, earning a sum of Rs.20,000/- p.m. However, the Tribunal had fixed a meagre sum of Rs.11,000/- as his monthly notional income. She therefore prayed for enhancing the notional income of the deceased.

9. Per contra Mr.V.Dakshanamoorthy, 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. In the instant case, the age of the deceased as per the Family ration card is 59 years. According to the claimants, Ramadoss (deceased) was a fisherman, earning a sum of Rs.20,000/- p.m. The claimants have adduced Identity Cards (Ex.P11 and Ex.P12) issued by the State and Central Government to show that Ramadoss (deceased) was a fisherman. However, in the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.11,000/-. It is pertinent to point out that the accident took place in the year 2019 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased as Rs.15,000/- would meet the ends of justice. As per the decision of the Supreme Court of India in ***National Insurance Co. vs Pranay sethi and others*** reported in ***2017 (2) TNMAC 601,*** 10% is added towards future prospects of the deceased. Since there are four dependents, 1/4th is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 9 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.15,000/-

after adding 10% Future Prospects = Rs.16,500/-

After 1/4 deduction = Rs.12,375/-

Loss of dependency:

= Rs.12,375/- x 12 x 9

= Rs.13,36,500/-

In addition to that the claimants are entitled to Rs.1,60,000/- (40,000/-x4), Rs.15,000/- and Rs.15,000/- towards loss of consortium, loss of estate and funeral expenses 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.15,26,500/- (13,36,500 + 1,60,000 + 15,000+15,000 = 15,26,500) as shown in the following tabular column:

S.No.	***Head***	***Amount granted by this court***
1.	Loss of dependency	Rs. 13,36,500 /-
2.	Loss of consortium (Rs.40,000/- x 4)	Rs.1,60,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.15,26,500/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.15,26,500/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

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

ii. The compensation awarded by the Tribunal is enhanced to Rs.15,26,500/-.

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 liability of the owner of the car and the insurer, United India Insurance Company Limited is joint and several and the second respondent / United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.15,26,500/- (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.341/2021 on the file of the Motor Accident Claims Tribunal, Special Sub Judge II, Court of Small Causes, Chennai.

v. On such deposit being made the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

14.10.2024

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

1.The Motor Accidents Claims Tribunal,
Special Sub Judge II,
Court of Small Causes, Chennai.
.
2.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

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