



C.M.A.No.1596 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 09.02.2024	Pronounced on 25.03.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1596 of 2021

Seethammal (44 years)
W/o.Murugan @ Mariappan
Kottavur Village
Kammampalli Post
Krishnagiri Taluk and District

... Appellant

Vs.

1.G.Gunasekaran
S/o.Govindasamy
No.21/167M, Pudhur 2
Chikkamarandahalli
Palacode Taluk
Dharmapuri District 636 808

2.The Branch Manager
Oriental Insurance Company Ltd.,
Micro Office, No.81-C, First Floor
KRC Complex, Chennai Salai
Krishnagiri.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the
Judgment and Decree dated 02.11.2018 made in MCOP.No.379 of 2017 on the



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file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Krishnagiri.

For Appellant : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 02.11.2018 made in MCOP.No.379 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Krishnagiri.

2.The claim Petitioner is the Appellant herein and she filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.379 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Krishnagiri. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased Vimal Kumar filed MCOP.No.379 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Krishnagiri, seeking compensation and



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filed this Appeal on the point of quantum.

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4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P1 to Ex.P9 were marked and on the side of the Respondents, RW1 & RW2 were examined and Ex.R1 to Ex.R5 were marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioner and the learned counsel appearing on behalf of the Insurance Company.

7.Learned counsel for the claim Petitioner would contend that the claim Petitioner is a widowed mother of the deceased viz., Vimal Kumar, who died in



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the accident occurred on 24.01.2015. The learned counsel for the claim Petitioner would contend that the Tribunal has deducted $\frac{1}{2}$ of the share towards personal expenses of the deceased instead of $\frac{1}{3}^{\text{rd}}$ as the deceased died as a bachelor.

8.Per contra, learned counsel for the Insurance Company would contend that in respect of deduction towards personal and living expenses of the deceased, the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***, shall be followed.

9.In paragraph No.15 of the ***Sarla Verma's*** case, the Hon'ble Apex Court held as follows:

15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut



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drastically.

even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

Hence, when the deceased has a widowed mother and large number of younger non-earning sisters or brothers, then only his personal and living expenses shall be taken as 1/3rd, but in the present case, there is no younger brother or sister, who are non-earning family members and the only family member is the widowed mother. Therefore, in the light of the decision rendered by the Hon'ble Apex Court stated supra, the Tribunal's 1/2 deduction towards personal and living expenses of the deceased is just fair and proper.

10.The Tribunal has fixed the monthly income of the deceased at Rs.24,300/-, deducted 1/2 towards personal expenses of the deceased, added



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50% towards future prospects, which is just and proper and hence, this Court confirms the same. The Tribunal has adopted right multiplier of '17'. The same is also hereby confirmed. The Tribunal has awarded a sum of Rs.15,000/- each towards loss of estate and for funeral expenses. The same is also hereby confirmed. The Tribunal has awarded a sum of Rs.80,000/- towards filial consortium, the same is also hereby confirmed. In total, the Tribunal has awarded the following:

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss [24300 + (50% of 24300)] x 12 x 17 x 1/2	3717900
2	Loss of filial consortium	80000
3	Funeral expenses	15000
4	Loss of Estate	15000
	Total Compensation	3827900

In total, the claim Petitioner is entitled to a sum of Rs.38,27,900/- (Rupees thirty eight lakh twenty seven thousand and nine hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.



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11. Accordingly, the Judgment and Decree dated 02.11.2018 made in MCOP.No.379 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Krishnagiri is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. No costs.

25.03.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The Additional District and Sessions Judge,
Additional District and Sessions Court
(Motor Accident Claims Tribunal)
Krishnagiri.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 25.03.2024