IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM :

The Hon'ble Mr.Justice Krishnan Ramasamy

C.M.A.No.2719 of 2023
and
C.M.P.No.19433 of 2021

1. P.Anthonimary
2. P.Martin Sonia
3. P.Divya Nessy
4. P.James Clinton

Cause title accepted vide Court order
dated 05.10.2023 made in C.M.P.No.20021 of 2023
in CMA SR.No.60895 of 2019
Jayamani Philips (since deceased)
... Appellants/Petitioners

Vs.

1. J.Premkumar
2. Shriram General Insurance Co.Ltd.,
   1st Floor, Plot No.5, Ramachandra Street,
   Saravanan Nagar, Seevaram,
   Chennai 600 096. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Award and Decree dated 30.01.2018 passed in MCOP.No.6162 of 2012 by the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants	:	Mr.K.Malaikannu
For R1	:	Notice dispensed with
For R2	:	M/s.R.Sree Vidhya

JUDGEMENT

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal/Chief Small Causes Court, Chennai in M.C.O.P.No.6162 of 2012 dated 31.01.2018, the claimants are before this Court.

2. The brief facts are as follows:-

The appellants/petitioners are the wife and children of the deceased Peter Thambi Durai. On 06.02.2012 at about 23.30 hours, the first petitioner/appellant's husband was riding a two wheeler, bearing Reg.No.TN-03-H-0226, he was hit by a Trailer Lorry, bearing Reg.No.TN-03-9984, which came from opposite direction and rear right wheel of the said trailer lorry ran over the deceased. Due to the said accident, the deceased sustained grievous injuries and died on the spot. Thereafter, the appellants have filed a claim petition before the Tribunal, claiming a compensation of Rs.50,00,000/-.

3. The learned counsel for the appellants submitted that, for the purpose of awarding compensation under the head 'loss of income', the Tribunal has applied split multiplier method instead of single multiplier method, which is on lower side. Hence, he requested this Court to enhance the same. Further, since no amount was awarded under the head “Loss of love and affection”, he requested this Court to award the same. He also sought for appropriate enhancement of the compensation towards loss of estate and funeral expenses in favour of the appellants.

4. Per contra, the learned counsel appearing for the second

respondent/Insurance Company would fairly submit that as per the dictum laid down by the Hon'ble Apex Court, the split multiplier method has been applied by the Tribunal for awarding compensation of the deceased. Hence, he requests this Court to confirm the award passed by the Tribunal.

5. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The grievance of the appellants is with regard to the quantum of compensation awarded under the head of 'loss of income' by the Tribunal by applying split multiplier method instead of single multiplier. It is settled that in absence of any specific reason and evidence on record, Tribunal or Court should not apply split multiplier in routine course and should apply multiplier as per decision of Supreme Court in case of ***"Sarla Verma v. Delhi Transport Corporation"***, (2009) 6 SCC 121. Therefore, this Court is inclined to adopt the multiplier as per the

decision of the Hon'ble Supreme Court (cited supra).

7. At the time of accident, the deceased was aged 53 years and earning a sum of Rs.29,100/- per month and adding 15% future prospects and by deducting 20% towards income tax and the annual income of the deceased would be a sum of Rs.3,59,264/-. Deducting 1/4th towards the personal expenses of the deceased, by adopting the multiplier of 11 fixed by the Hon'ble Supreme Court, the loss of income to the family is worked out as follows :-

Rs.3,59,264/- (annual income) * 11 (multiplier)
* 3/4 (dependency) = Rs.29,63,928/-

8. A sum of Rs.40,000/- has been granted to the first appellant under the head of "loss of consortium", and a sum of Rs.15,000/- each awarded under the heads of “loss of estate” and “loss of funeral expenses”, which stands confirmed. Apart from that, no amount has been awarded under the heads of “loss of love and affection” and “transportation”. Therefore, this Court is inclined to award a sum of Rs.10,000/- towards transportation and a sum of Rs.1,20,000/- (Rs.40,000/- each) towards loss of love and affection to the appellants 2

to 4.

9. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	*Awarded by the Tribunal (Amount in Rs.)*	*Awarded by this Court (Amount in Rs.)*
Loss of Income	21,61,992	29,63,928
Loss of love and affection in respect of apellants 2, 3 and 4	Nil	1,20,000/-
Loss of consortium to the 1st appellant/wife	40,000/-	40,000/-
Funeral expenses	15,000/-	15,000/-
Transportation	Nil	10,000/-
Loss of estate	15,000	15,000/-
Total	**22,31,992**	**31,63,928**

10. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.22,31,992/- to Rs.31,63,928/-. Since the 5th appellant namely Jayamani Philips had expired and the appellants 1 to 4 are the

legal heirs, they are entitled to get the compensation awarded to her proportionately. Hence, the compensation will be awarded to the claimants in the following proportions:

i) Wife of the deceased/1st appellant – Rs.22,63,928/-
ii) Children of the deceased/appellants 2 to 4 – Rs.3,00,000/- each

10. The second respondent/Insurance Company is directed to deposit the entire amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.6162 of 2012 on the file of Chief Small Causes Court, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the claimants, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimants or application for withdrawal from the claimant, whichever is later. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced

amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs. Consequently, connected Miscellaneous Petition is closed.

04.01.2024

Index : Yes / No
NCC : Yes / No
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To

1. The Motor Accident Claims Tribunal,
   Chief Small Causes Court,
   Chennai.

2. The Section Officer,
   V.R. Section,
   High Court, Madras.

Krishnan Ramasamy,J.,

jd

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