IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2080 of 2024

1. Sundram
2. Sasikala
3. Baskaran ... Appellants

vs.

1. Lingala Narasimha Reddy,

2. M/s.Shriram General Insurance Co. Ltd.,
   1st Floor, Front Portion,
   No.5-F, Sachin Plaza,
   Reddiyar Block No.1,
   Salem - 636 016.

3. M.Vikraman ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 01.11.2022 in M.C.O.P.No.572 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

For Appellants : Mr.S.Nirmal Aditya

For R2 : Ms.R.Sreevidhya

JUDGMENT

The appellants are the claimants in M.C.O.P.No.572 of 2021 on the file of the Motor Accident Claims Tribunal / Special District Judge, Salem. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of one Naveen, (the son of the first claimant and brother of the claimants 2 and 3) in a road accident that took place on 05.03.2021.

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

On 05.03.2021 Naveen (deceased) was riding a two wheeler bearing Registration No.TN-32_E-8053 on Omalur - Dharmapuri Main Road. When he was nearing Poosaripatti bridge at about 7.15 a.m., a tempo traveller bearing Registration number AP-39-TS-2899 belonging to the first respondent hit the two wheeler, as a result of which, Naveen fell down and sustained grievous injuries all over his body and was rushed to Government Hospital, Omalur. However, he died on the way to the hospital.

3. According to the claimants, the rash and negligent driving of the driver of the tempo traveller bearing Registration number AP-39-TS-2899 was the cause of the accident and that since the said vehicle was insured with the second respondent, the Shriram General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation.

4. The respondents 1 and 3 remained absent and were set *ex parte* in the Tribunal. 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.11,65,000/- 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 01.11.2022. The Tribunal also held that the liability of the first and second respondents are joint and several.

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, seeking for enhancement of compensation amount.

7. Heard Mr.S.Nirmal Aditya, learned counsel appearing for the appellants and Ms.R.Sreevidhya, learned counsel for the second respondent.

8. In the claim petition, it is contended that the deceased was a mechanic running an auto mobile shop earning a sum of Rs.25,000/- per month. In the absence of income proof, the Tribunal fixed the monthly income of the deceased as Rs.10,000/-. It is pertinent to point out that the accident took place in the year 2021 and in the facts and circumstances, this Court is of the opinion that fixing the notional monthly income of the deceased at 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,*** 40% should be added towards future prospects of the deceased. The deceased died as a

bachelor and hence, 50% is deducted towards his personal expenses. The deceased was aged 24 years on the date of the accident. The proper multiplier to be adopted in the instant case is 18 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/-

40% Future Prospects = Rs.6,000/-

Total = Rs.15,000/- + Rs.6,000/- = Rs.21,000/-

After 1/2 deduction = Rs.10,500/-

Loss of dependency :

= Rs.10,500/- x 12 x 18

= Rs.22,68,000/-

In addition to that the claimants are entitled to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- for 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.24,18,000/- (22,68,000 + 1,20,000 + 15,000 + 15,000= 24,18,000) which is extracted here under.

S.No.	***Head***	***Amount granted by this court***
1.	Loss of dependency	Rs.22,68,000/-
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.24,18,000/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.11,65,000/- to Rs.24,18,000/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

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

ii. The compensation awarded by the Tribunal is enhanced from Rs.11,65,000/- to Rs.24,18,000/-.

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 first respondent and the second respondent, the United India

Insurance Company Limited are directed to deposit the compensation amount i.e., Rs.24,18,000/- (less the amount already deposited) jointly and severally 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 to the credit of M.C.O.P.No.572 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

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. However, it is made clear that the appellants are not entitled for interest for the period of delay in filing this appeal on the amount enhanced by this Court.

07.08.2024

Index : Yes/No
Speaking/Non-speaking order

mtl

To

1.The Motor Accidents Claims Tribunal,
Special District Judge, Salem.

2. M/s.Shriram General Insurance Co. Ltd.,
1st Floor, Front Portion,
No.5-F, Sachin Plaza,
Reddiyar Block No.1,
Salem - 636 016.

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

R.HEMALATHA, J.

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(3/3)