IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1587 of 2024

1. Anjali
2. Rajendran ... Appellants

vs.

1. R.Premkumar
2. United India Insurance Company Limited,
   D.O.T.P. Cell 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 21.12.2023 in M.C.O.P.3696/2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.U.Chithambaram
For R2 : Mr.D.Bhaskaran

J U D G M E N T

The appellants are the claimants in M.C.O.P.3696/2019 on the file of the Motor Accident Claims Tribunal, Chennai. They filed a claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of the M.A.C.T. Rules seeking compensation of Rs.50,00,000/- for the death of their son R.Rajavarman in a road accident that occurred on 13.06.2019.

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

On 13.06.2019, R.Rajavarman (deceased) was travelling as a pillion rider in a two-wheeler bearing Registration number TN-06-X-1582 on Pondicherry - Chennai ECR Road. When he was nearing Keelpettai, the rider of the two wheeler drove the vehicle rashly and negligently and hit a Government bus bearing Registration number TN-21-N-1824 that was coming in the opposite direction, R.Rajavarman was thrown out of the two wheeler and died on spot.

3. According to the claimants, the rash and negligent driving of the rider of the two wheeler bearing Registration number TN-06-X-1582 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 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, fastened negligence on the rider of the two wheeler bearing Registration number TN-06-X-1582 and directed the second respondent, the United India Insurance Company Limited to pay compensation of Rs.19,35,000/- 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 two wheeler and the insurer is 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.

7. Heard Mr.U.Chithambaram, learned counsel appearing for the appellants and Mr.D.Bhaskaran, learned counsel for the second respondent.

8. Mr.U.Chithambaram, learned counsel appearing for the appellants/claimants contended that the deceased**,** aged 24 years was a

Carpenter, earning a sum of Rs.30,000/- p.m. However, the Tribunal had fixed a meagre sum of Rs.12,000/- as his monthly notional income. He, therefore prayed for enhancing the notional income of the deceased.

9. Per contra Mr.D.Bhaskaran, 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. According to the claimants, R.Rajavarman (deceased) aged 24 years, was a Carpenter, earning a sum of Rs.30,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.12,000/-. 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,*** 40% is added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. 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/-

after adding 40% Future Prospects = Rs.21,800/-

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.80,000/- (40,000/-x2), 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.23,78,000/- (22,68,000 + 80,000 + 15,000 + 15,000 = 23,78,000) as shown in the following tabular column:

S.No.	***Head***	***Amount granted by this court***
1.	Loss of dependency	Rs. 22,68,000 /-

S.No.	***Head***	***Amount granted by this court***
2.	Loss of consortium (Rs.44,000/- x 4)	Rs.80,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.23,78,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.23,78,000/- 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.23,78,000/-.

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 liability of the first respondent (owner) and the second respondent (the United India Insurance Company Limited) is joint and several and the second respondent / the United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.23,78,000/- (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.3696/2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

v. On such deposit being made, the appellants, claimants are 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.

24.09.2024

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

R.HEMALATHA, J.

vum

To

1.The Motor Accidents Claims Tribunal,
Chief Judge, Court of Small Causes, Chennai.

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

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