IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1365 of 2024

1. Vanitha

2. Ponnammal

3.Kuppusamy ... Appellants

vs.

1. G.Raghunathan

2. The Manager,
Royal Sundaram General Insurance Company Limited,
No.1, II Floor, Subramaniyam Buildings,
Club House Road,
Anna Salai, Chennai -2. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 27.08.2021 in M.C.O.P. 4063 of 2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellants : Mr.U.Chithambaram

For R2 : Mr.G.Vasudevan

JUDGMENT

The appellants are the claimants in M.C.O.P. 4063 of 2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.45,00,000/- for the death of one Veerapathiran (the husband of first claimant and son of claimants 2 and 3) in a road accident that took place on 03.03.2018.

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

On 03.03.2018, Veerapathiran (since deceased) was riding a two wheeler bearing Registration Number TN-21-P-1374 on Chengalpattu - Kancheepuram Road. When he was nearing Krishna Nagar, a lorry bearing Registration Number TN-11-4610 belonging to the first respondent, hit the two wheeler driven by Veerapathiran (deceased), as a result of which, he sustained grievous injuries all over his body. He was immediately rushed to CMC Hospital, Chengalpattu. However, he succumbed to injuries on the same day.

3. According to the claimants, the rash and negligent driving of the driver of the lorry bearing Registration Number TN-11-4610 was the cause of the accident and that since the said vehicle was insured with the second respondent, the Royal Sundaram General 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 lorry remained absent and was set *ex parte*. 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 part of the driver of the lorry and awarded compensation of Rs.15,60,000/- to the appellants / claimants 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 27.08.2021.

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, 1988.

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

8. Mr.U.Chithambaram, learned counsel appearing for the appellants contended that the deceased was working as a driver for a private concern earning a sum of Rs.15,000/- per month. According to him, the claimants had filed the salary certificate (Ex.P16) issued by the employer (P.W.3) of the deceased. The Tribunal fixed the notional monthly income of the deceased only as Rs.10,000/-. He therefore, prayed for enhancement of the notional monthly income of the deceased.

9. Per contra Mr.G.Vasudevan, learned counsel appearing for the second respondent contended that the Award passed by the Tribunal is based on the well laid down 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. It is seen from the evidence of Megul Patel (P.W.3) and the salary certificate (Ex.P16) dated 11.02.2020, Veerapathiran (deceased) was employed as a driver in Ashapura Wood Industries and his salary is mentioned as Rs.15,000/- per month with daily batta of Rs.100/-. The person who issued the salary certificate (Ex.P16) has not been examined. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-. However, considering the age of the victim and the year of the accident, 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***, 25% is added towards future prospects of the deceased. Since there are three dependents, 1/3rd of the deceased's income should be

deducted towards her personal expenses. The deceased was aged 44 years on the date of accident and the proper multiplier to be adopted in the instant case is 14 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/-

25% Future Prospects = Rs.18,750/-

After 1/3 deduction = Rs.12,500/-

Loss of dependency

= Rs.12,500/- x 12 x 14

= Rs.21,00,000/-

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000 x 3), 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.22,50,000/- (21,00,000 + 1,20,000 + 15,000 + 15,000= 22,50,000) as shown in the following tabular column.

S.No.	*Head*	*Amount granted by this court*
1.	Loss of dependency	Rs.21,00,000/-
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.22,50,000/-**

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.15,60,000/- to Rs.22,50,000/- which 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 from Rs.15,60,000/- to Rs.22,50,000/-.

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 second respondent, the Royal Sundaram General Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.22,50,000/- (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 to the credit of M.C.O.P. 4063 of 2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

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.

10.09.2024

Index : Yes/No
Speaking/Non-speaking order

mtl

To

1.The Motor Accidents Claims Tribunal,
II Small Causes Court, Chennai.

2. United India Insurance Company Limited,
Silingi Building, 4th Floor,
Motor Third Party Claims Hub,
No.132, Greams Road,
Chennai - 600 006.

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

R.HEMALATHA, J.
mtl

C.M.A.No.1365 of 2024

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