IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.11.2023

Pronounced on : 07.06.2024

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.2578 of 2023

1.Nallammal
2.Palanivel
3.Sakthivel ... Appellants / Petitioners

Vs

1.Rangasamy

2.The Oriental Insurance Company Limited
Kumar Complex, First Floor
146, West Car Street
Tiruchengode Town & Taluk
Namakkal District.
Branch at : HUB Division
Parimalam Complex,
Mettur Road, Erode.
... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, praying to allow the civil miscellaneous appeal and enhance the award amount in the judgment and decree dated 03.12.2019 made in M.A.C.T.O.P.No.518 of 2017 on the file of the Motor Vehicle Accident Claims Tribunal / Special District Judge Court, Erode.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : Mr.J.Chandran for R2
R1 - Dispensed with

JUDGMENT

On 23.03.2017, when one Arumugam, an employee of the Municipality, was riding his cycle for discharging certain official responsibilities, he was fatally knocked down by a rashly driven motorcycle bearing Registration No.TN 34 P 6193. The motorcycle belongs to the first respondent and was insured with the second respondent.

2. Arumugam was working as a sanitary worker at Thiruchencode Municipality. For arriving at the compensation amount payable to the claimants before it, the tribunal was presented with multiple documents quoting different age for the deceased, and after analysing them all, the Tribunal reckoned the age of Arumugham at 58 years and 8 months, based on his service record. As per Ex.P19, he was drawing a monthly salary of Rs.21,537/-. In a claim petition preferred by his heirs, the Tribunal considered Rs.21,537/- as his income, deducted the professional tax payable

and added 15% towards future prospects and arrived at a sum of Rs.2,94,854/-, and applied split multiplier for determining the compensation payable to the claimants. Accordingly reckoning the net annual income including the future prospects at Rs.2,94,854/- the tribunal applied 9 as the multiplier for 2 years, which is up to his age of superannuation at 60 years and the monthly income of the victim at Rs.9,000/- notionally for a period of seven years, deducted 1/3 towards the personal expenses of the victim and arrived at the net annual value of dependency of the claimants at Rs.8,97,138/- . After adding other conventional heads of compensation, the tribunal had awarded a sum of Rs.10,46,032/-, and the break-up is as below:

Sl. No.	***Heads of Compensation***	***Amount awarded by Tribunal (Rs.)***
1.	Loss of income	8,97,138.00
2.	Funeral expenses	15,000.00
3.	Loss of consortium	40,000.00
4.	Damages to clothings	15,000.00
5.	Loss of love and affection	50,000.00
6.	Medical expenses	18,894.00
7.	Transportation charges	10,000.00
	Total :	**10,46,032.00**

3. Aggrieved by the inadequacy of the sum awarded by the MACT, the

claimants are now before this Court. Heard both sides. The principal contention of the counsel for the appellants is that the trial Court ought not to have applied split multiplier method for determining the value of dependency of the claimants, for which purpose, he relied on the ratio in ***K.R.Madhusudhan and Ors. Vs Administrative Officer and another*** [(2011) 4 SCC 689], where the Court has held :

> *"14. In the appeal which was filed by the appellants before the High Court, the High Court instead of maintaining the amount of compensation granted by the Tribunal, reduced the same. In doing so, the High Court had not given any reason. The High Court introduced the concept of split multiplier and departed from the multiplier used by the Tribunal without disclosing any reason there for. The High Court has also not considered the clear and corroborative evidence about the prospect of future increment of the deceased. When the age of the deceased is between 51 and 55 years, the multiplier is 11, which is specified in the 2nd column in the Second Schedule to the Motor Vehicles Act, and the Tribunal has not committed any error by accepting the said multiplier. This Court also fails to appreciate why the High Court chose to apply the multiplier of 6.*
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> *15. We are thus, of the opinion that the judgment of the High Court deserves to be set aside for it is perverse and clearly contrary to the evidence on record, for having not considered*

the future prospects of the deceased and also for adopting a split multiplier method."

This ratio has been followed in ***N.Jayasree & Ors. Vs Cholamandalam MS General Insurance Company Ltd.*** [(2021) 6 S.C.R.1001]. He also relied on the authority in ***P.Santhi & Others Vs K.Venkatachalam, the Chairman, S.S.M. College of Engineering, Tiruchengode & Others***.

4. In the facts of this case, this Court does not find any ground for applying split multiplier.

5. This apart when this Court perused the award, it finds that given the fact that the victim of the accident had died only on the following day of the accident, the compensation should have been awarded for pain and suffering. Therefore the Court fixes the same at Rs.20,000/-. Accordingly, the award of the Tribunal is revised as follows :

Sl. No.	***Heads of Compensation***	***Revised award amount (Rs.)***
1.	Loss of dependency	17,83,284.00
2.	Funeral expenses	15,000.00
3.	Loss of consortium	40,000.00
4.	Damages to clothings	15,000.00

Sl. No.	*Heads of Compensation*	*Revised award amount (Rs.)*
5.	Loss of love and affection (for claimants 2 and 3)	50,000.00
6.	Pain and Suffering	20,000.00
7.	Medical expenses	18,894.00
8.	Transportation charges	10,000.00
	Total :	**19,52,178.00 (Rounded off to Rs.19,52,000/-)**

6. The appeal is partially allowed and the respondents are jointly and severally liable to pay the aforesaid sum of Rs.19,52,000.00 to the claimants. The 2nd respondent/insurance company is now required to deposit the said sum with interest at the rate of 7.5% less (a) any amount which has been already deposited; and (b) interest payable for 257 days delay in filing the appeal, within a period of eight weeks from the date of receipt of a copy of this judgment. Of the enhanced portion of the award, 60% is directed to be given to the first claimant/first appellant, the widow of the victim of the accident and the balance is directed to be given equally to claimants 2 and 3. No costs.

07.06.2024

ds
Index : Yes / No

Internet : Yes / No
Speaking order / Non-speaking order
ds

To:

1.The Special District Judge Court,
Motor Vehicle Accident Claims Tribunal
Erode.

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

N.SESHASAYEE.J.,

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Pre-delivery Judgment in
C.M.A.No.2578 of 2023

07.06.2024