IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1376 of 2024

1.Suseela
2. Madhiyan ... Appellants

vs.

1. Rafee
2. Ramasamy
3. M/s. United India Insurance Company Limited,
Represented by its Divisional Office-II (HUB),
104-A, Peramanur Main Road, Salem. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against Award dated 12.01.2023 passed in M.C.O.P.No.1463 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge (FAC), Salem.

For Appellants	: Mr. S.P. Yuvaraj
R1 & R2	: Notice dispensed with.
For R3	: Mrs. I. Malar

JUDGMENT

The appellants are the claimants in M.C.O.P.No.1463 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Court (FAC), Salem. They filed the claim petition under Section 166 of the

Motor Vehicles Act, 1988 seeking compensation of Rs.40,00,000/- for the death of their son Thiruppathi in a road accident that took place on 03.10.2021.

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

On 03.10.2021 Thiruppathi (deceased) was riding a Motorcycle bearing Registration Number TN-33-BK-8092 with one Sekar as a pillion rider on Thiruchengode- Pallipalayam Main Road. When he was nearing Alampalayam Panchayat Office, a speeding bus bearing Registration Number TN-30-BA-6889 belonging to the second respondent came in the opposite direction and hit the motorcycle resulting in his instantaneous death.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-30-BA-6889 was the cause of the accident and that since the said vehicle was insured with the third 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 first and second respondents remained absent and were set *ex parte*. The third 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.10,10,000/- 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 12.01.2023. The Tribunal also held that the liability of the respondents are joint and several.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr. S.P. Yuvaraj, learned counsel appearing for the appellants and Ms.I.Malar, learned counsel for the third respondent.

8. In the claim petition, it is contended that the deceased was aged about 32 years and was working as a powerloom weaver in Andal Agencies, Pallipalayam, earning a sum of Rs.21,000/- per month. The Tribunal fixed the notional monthly income of the deceased as Rs.10,000/- since no income proof was filed. 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 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% is 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 32 years on the date of the accident and the proper multiplier to be adopted in the instant case is 16 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.21,000/-

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

Loss of dependency

= Rs.10,500/- x 12 x 16

= Rs.20,16,000/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), 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.21,26,000/- (20,16,000 + 80,000 + 15,000 + 15,000= 21,26,000) as shown in the following tabular column.

S.No.	***Head***	***Amount granted by this court (Rs.)***
1.	Loss of dependency	20,16,000/-
2.	Loss of consortium (Rs.40,000/- x 2)	80,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
Total		Rs.21,26,000/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

9. In the result,

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

ii. The compensation awarded by the Tribunal is enhanced from Rs.10,10,000/- to Rs.21,26,000/-.

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 respondents are jointly and severally liable to compensate the claimants a sum of Rs.21,26,000/- (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.No.1463 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge (FAC), Salem. The appellants/claimants are not entitled to claim any interest for the period of delay of 245 days in filing this appeal.

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.

20.08.2024

Index : Yes/No
Speaking/Non-speaking order

bga

To

1.Motor Accident Claims Tribunal, Special District Judge (FAC), Salem.

2.M/s. United India Insurance Company Limited
Represented by its Divisional Office-II (HUB)
104-A, Peramanur Main Road, Salem

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

R.HEMALATHA, J.

bga

C.M.A.No.1376 of 2024

20.08.2024