



C.M.A(MD)No.527 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2024

CORAM:

**THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**C.M.A(MD)No.527 of 2019
and
C.M.P(MD)No.6232 of 2019**

- 1.The Assistant Director of Agriculture,
Kannangudi Panchayat Union,
Kannangudi Post,
Devakottai Taluk,
Sivagangai District.
- 2.The Joint Director of Agriculture,
Sivagangai Collector Office,
Sivagangai Nagar,
Sivagangai District.
- 3.The District Collector,
Collector Office,
Sivagangai District.
- 4.The Director of Agriculture,
Agriculture Department,
Chennai.

... Appellants

Vs.



C.M.A(MD)No.527 of 2019

1.Muthulakshmi
2.Kasinathan

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the award and decretal order dated 25.01.2019 made in MCOP No.174 of 2014 on the file of the Motor Accident Claims Tribunal-cum-Sub Judge, Devakottai.

For Appellants : Mr.A.K.Manickam
Spl. Govt. Pleader

For Respondents : Mr.R.Jenifer Bibin

JUDGMENT

[Judgment of the Court was delivered by K.K.RAMAKRISHNAN, J.]

This appeal is filed challenging the award and decretal order passed by the Motor Accident Claims Tribunal-cum-Sub Judge, Devakottai in MCOP No.174 of 2014, dated 25.01.2019.



C.M.A(MD)No.527 of 2019

WEB COPY

2. This is a case of fatal accident. The case of the claimants is that on 13.08.2014, their son Arun Selvan travelled in the Bolero Jeep bearing Reg.No.TN-63-G-0658. When the Jeep was coming near Gunakarai bus stop at 11.00 a.m, the driver of the Jeep drove the vehicle in a rash and negligent manner and thereby the Jeep gone off the road and fell into a ditch. As a result, the said Arun Selvan and other employees, who travelled in the jeep under the control of the first and third respondents sustained injuries. The said Arun Selvan was brought to Government Hospital, Devakottai, where he died. He was working under the control of the respondents 1, 2 and 4 as Specialist in ATMA (Agricultural Technology Management Agency) programme. He got monthly salary of Rs.8,500/- and it would have been increased to Rs.20,000/- per month. He is a bachelor. Hence, the claimants have filed the claim petition claiming compensation of Rs.40,00,000/-.

3. Resisting the claim, the appellant Department filed their respective counters disputing the age and income of the deceased. It was contended that the job of the deceased is not a permanent one and it is a temporary job. It was also contended that the claim is excessive and exorbitant.



C.M.A(MD)No.527 of 2019

WEB COPY

4. To substantiate the case, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to Ex.P.18 were marked. On the side of the appellant/Department, R.W1 and R.W.2 were examined, however, no document was marked.

5. The Tribunal, after considering the oral and documentary evidence, held that the driver of the Jeep was responsible for the accident and fixed the liability on the appellant/Department and awarded compensation of Rs.29,96,000/- to the claimants under the following heads:-

<i>Heads</i>	<i>Rs.</i>
General compensation	29,16,000/-
Love and Affection (25000 x 2)	50,000/-
Funeral Expenses	15,000/-
Transport Expenses	15,000/-
Total	29,96,000/-

Assailing the award, the appellant Department has filed the present appeal.



C.M.A(MD)No.527 of 2019

WEB COPY

6.The learned Special Government Pleader appearing for the appellants would submit that the claim petition without arraying the driver of the Jeep as a party in M.C.O.P.No.174 of 2014, is not maintainable. When the monthly salary of the deceased is Rs.8,500/- per month as per the record, the tribunal erroneously fixed the income of the deceased as Rs.15,000/- per month. Therefore, he seeks for reduction of the compensation.

7. Per contra, the learned counsel for the respondent claimant submitted that it is not necessary to implead the driver of the Jeep. The appellants are arrayed as a respondent as owner of the vehicle. He further submitted that the learned trial Judge considered all the aspect relating to the income of the deceased and fixed a sum of Rs15,000/- as the monthly income. Therefore, he seeks for the confirmation of the award.

8. Heard the learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondents/claimants and perused the materials available on record.



C.M.A(MD)No.527 of 2019

WEB COPY

9. The issues to be decided in this appeal are as follows:

(i) whether the appellant department is liable to pay compensation to the claimants

(ii) whether the quantum of compensation awarded by the Tribunal is correct or not.

10. In this case, the appellants have not disputed the involvement of the vehicle bearing registration No.TN-63-G-0658. It is also not disputed, that the said vehicle was driven by the driver of the appellant department. For his negligence, the appellants are liable to pay the compensation on the principles of agency. Therefore, non-impleading of the driver of the appellant department is not fatal to the claim made by the claimants.

11. The deceased was graduate in B.Sc., Agriculture, According to the learned trial Judge, he was a brilliant student and he was selected and appointed as specialist in ATMA (Agricultural Technology Management Agency) on consolidated payment of Rs.8,500 per month. Considering his proficiency and bright chance to get employment in the department of agricultural, the learned



C.M.A(MD)No.527 of 2019

WEB COPY Tribunal Judge, fixed a sum of Rs.15,000 as a monthly income. The Hon'ble Supreme Court in the case of **Chandra v. Mukesh Kumar Yadav** reported in **2022 (1) SCC 198** has held as follows:

9...the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because the claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs 15,000 per month.

12. Considering his future employment, the learned Tribunal Judge, has correctly fixed the monthly income of the deceased as Rs.15,000/- per month. Hence, this Court finds no perversity in fixing the monthly income of the deceased as Rs.15,000/- per month. The learned Tribunal Judge has also correctly applied the principle laid down by the Hon'ble Supreme Court in “**Pranay Sethi**” case reported in **2017 ACJ 2700** and also followed the multiplier method as per the “**Sarala verma**” Case reported in **2009 ACJ 1298** and correctly calculated the compensation of Rs.29,96,000/-. In considered view of this Court, the said



C.M.A(MD)No.527 of 2019

WEB COPY

amount is neither unreasonable nor on higher side. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

13. In such view of the matter, this Civil Miscellaneous Appeal is dismissed. The appellants are directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the award amount, as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

skn/sbn

NCC : Yes/No

Index : Yes / No

Internet : Yes

[V.B.S.,J.]

[K.K.R.K.,J.]

23.02.2024



C.M.A(MD)No.527 of 2019

WEB COPY

To

- 1.The Motor Accident Claims Tribunal-cum-
Sub Judge, Devakkottai.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.527 of 2019

**V.BHAVANI SUBBAROYAN, J.
and
K.K.RAMAKRISHNAN, J.**

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**JUDGMENT MADE IN
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