

(2014) 12 MAD CK 0368

Madras High Court (Madurai Bench)

Case No: Civil Miscellaneous Appeal (MD) No. 1576 of 2013 and M.P. (MD) No. 1 of 2014

P. Kannathasan

APPELLANT

Vs

J. Alexander

RESPONDENT

Date of Decision: Dec. 3, 2014

Hon'ble Judges: S. Vimala, J

Bench: Single Bench

Judgement

S. Vimala, J.

This appeal is filed by the claimants challenging the quantum of compensation awarded by the Tribunal as meagre and inadequate.

2. The parents and brother of the deceased filed a claim petition for compensation claiming a sum of Rs. 30 lakhs.

3. The deceased Vigneshkanna, aged 20 years, employed as part-time Technical Support Engineer in M/s.VB Systems, Thanjavur, earning a sum of Rs. 7,000/- per month, died in an accident which took place on 25.05.2011.

4. Before the Claims Tribunal, evidence was let in to show that the deceased was a very bright student and he was also attending part-time employment and therefore there was likely increase in the prospective income of the deceased, and therefore, the compensation as claimed in the claim petition, should be awarded. To substantiate the income, P.W.4, the owner of M/s.VB Systems, has been examined, who has deposed that the deceased was getting a salary of Rs. 2,500/- and apart from that, he used to receive not less than Rs. 200/- per day from the customers for the services rendered at their respective premises.

5. The Tribunal had taken the monthly income of the deceased at Rs. 3,750/- and deducting 1/3rd towards personal expenses and adopting the multiplier of 15, has quantified the compensation for loss of dependency at Rs. 4,50,000/-. Awarding a sum of Rs. 5,000/- towards funeral expenses and Rs. 60,000/- towards loss of love and affection, the overall compensation was arrived at Rs. 5,15,000/- which is

payable with interest at the rate of 7.5% from the date of petition. This amount is under challenge in this appeal.

6. The learned counsel for the appellant submitted that when there was evidence to show that there was a bright future for the deceased, the Tribunal is not justified in not fixing the correct monthly income and in not taking into account the future prospective increase in income, especially when the deceased was at the budding stage. When the deceased was aged only 26, the appropriate multiplier has not been adopted, is the yet another contention raised.

7. When there is evidence to show that the deceased was aged 26 years, according to the settled principle in Sarla Verma's case, the multiplier should be 17 and not 15.

8. So far as the fixation of income is concerned, the income is not standard income, but fluctuating income. However, the fact remains that he has been employed even while he was studying. Therefore, the inclination to earn while learning, which was inherent in the mind of the deceased, would have been helpful for him to earn more in future. Fixing the monthly income at Rs. 5,000/- and adding Rs. 2,500/- ie., 50% towards future prospective increase in income and deducting 1/3rd towards personal expenses, the monthly contribution to the family would be Rs. 5,000/-. Adopting the multiplier of 17, the loss of dependency would be Rs. 10,20,000/-. Accordingly, the loss of dependency stands modified to Rs. 10,20,000/-. It would be appropriate to award a sum of Rs. 90,000/- towards loss of love and affection. The amount of Rs. 2,000/- awarded towards funeral expenses stands modified to Rs. 10,000/-. Accordingly, the total compensation payable, would be Rs. 11,20,000/-.

9. The enhanced amount is payable with interest at 7.5% p.a., from the date of petition till the date of deposit.

10. The Insurance Company shall deposit the modified compensation of Rs. 11,20,000/- with interest at 7.5% p.a., from the date of petition, less the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants will be permitted to withdraw the same.

11. In the result, the Civil Miscellaneous Appeal is partly allowed. Consequently, the connected miscellaneous petition is closed. No costs.