
(1989) 07 MAD CK 0035
In the Madras High Court
Case No : M.A. No. 714 of 1983

Dhatchayani and Others

APPELLANT

Vs

I.G. Transports and Others

RESPONDENT

Date of Decision : 07-07-1989

Acts Referred:

Citation : (1990) 1 ACC 150 : (1990) ACJ 850

Hon'ble Judges : V. Ratnam, J

Bench : Single Bench

Advocate : A.N. Vishwanatha Rao, for the Appellant; K. Tadnanbhan, for the Respondent

Final Decision : Allowed

Judgement

V. Ratnam, J.—In this appeal at the instance of the claimants against the award of the Motor Accidents Claims Tribunal, Chengalpattu, in M.C.O.P. No. 380 of 1981, the only question that arises for consideration is whether the Tribunal was right in awarding a sum of Rs. 36,000/- towards the compensation as against Rs. 50,000/- claimed by the appellants. There is no dispute that in the accident that took place on 17.6.1981, the husband of the first appellant and the father of appellant Nos. 2 to 5 one Muthusami lost his life. Equally, there is no dispute that the accident was caused by the rash and negligent driving of the driver of the lorry. The Tribunal, on the basis of a suggestion put to PW 1 determined the contribution of the deceased to the appellants at Rs. 150/- p.m. and taking into account the age of the deceased at the time of his death at 36 years, multiplied the contribution of Rs. 1,800/- per annum for 20 years and awarded a compensation of Rs. 36,000/- inclusive of the loss sustained by the appellants herein for loss of consortium of the first appellant and the mental agony of all the appellants. The evidence of PW 1 is to the effect that the deceased was earning about Rs. 600/- every month in the wholesale rice business carried on by him. It is seen that the deceased had applied for the issue of a licence on 11.2.1981 though the licence had actually been issued on 29.6.1981 after the accident.

Nothing has been placed before this court to disbelieve the evidence of PW 1 to the effect that the deceased had been carrying on business and earning substantial income therefrom and this would mean that he had commenced such business and had also carried it on before his death. The minimum contribution by the deceased to his family consisting of his wife and four children should have been at least Rs. 300/- per month, viz., Rs. 100/- for the first appellant and Rs. 200/- for the four minor children to meet the expenses of their food, clothing, education and other expenses as well. Apart from merely relying on the suggestion put to PW 1, there is no other reliable or acceptable evidence to show that the contribution of the deceased was only Rs. 150/- per month and not more. Considering the size of the family of the deceased and the number of mouths that were required to be fed, the amount contributed by the deceased to his family could be fairly and reasonably fixed at Rs. 300/- out of Rs. 600/- earned by the deceased as per the evidence of PW 1. From Exh. A-1, it is seen that the deceased was born on 10.6.1942 and he was 39 years of age at the time of the accident. Though the normal longevity can be taken to be 58 to 60 years, that would have enabled the deceased to contribute Rs. 3,600/- per annum for the next 19 to 21 years and the amount so contributed would have been fairly substantial. Even adopting a multiplier of 15, the contribution of the deceased to the family would have been Rs. 54,000/- and it is settled law that when the multiplier adopted is 15, there is no need for making any further deduction for lump sum payment. Looked at from this point of view, the claimants would be entitled to a compensation of Rs. 54,000/- while the Tribunal had awarded only Rs. 36,000/-. The appellants had claimed a total compensation of Rs. 50,000/- and under these circumstances, they would be entitled to recover an additional compensation amount of Rs. 14,000/- with interest at 6 per cent per annum on the entire amount of Rs. 50,000/- from the date of application, viz., 10.10.1981 till the date of payment. The learned Counsel for the appellants represents that during the pendency of the appeal, a sum of Rs. 8,000/- representing the share of the first appellant had been withdrawn and the balance of Rs. 28,000/- referable to the shares of the minor appellant Nos. 2 to 5 had been invested as fixed deposit in the Indian Bank, Chengalpattu. In view of the enhanced compensation now awarded, the first appellant will be entitled to an additional compensation of Rs. 2,000/- and the balance of the excess compensation of Rs. 12,000/- will also be invested as a fixed deposit with the Indian Bank, Chengalpattu on behalf of the minor appellant Nos. 2 to 5, as and when the amounts are deposited by the insurance company and the amounts referable to the shares of appellant Nos. 2 to 5 will continue to remain invested as fixed deposits till they attain majority and the interest accruing on the deposits alone will be withdrawn by the first appellant periodically for purposes of meeting the expenses and maintenance of minor appellant Nos. 2 to 5. Other amounts, if any, will be permitted to be withdrawn by the first appellant. The appeal is allowed. The appellants will also be entitled to their costs of this appeal.