

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

CORAM

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN

C.M.A.No.1038 of 2015

1. Adukumalli
2. Nagalingam
3. Deveshpandian (Minor)
Rep. by his mother Adukumalli ... Appellants/Petitioners

Vs.

1. J.Anand
2. Bajaj Allianz General Insurance Company Ltd.,
Prince Towers, IV Floor
25/26, College Road
Chennai - 600 006 ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree of the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court), Chennai dated 22.09.2014 made in M.C.O.P.No.536 of 2013.

For Appellants : Mrs.Salim Fathima

For Respondents : Mrs.R.Sreevidhya for R2

JUDGMENT

The appeal has been preferred by the claimants against the award of Rs.3,30,000/- as compensation for the death of one N.Vishali, aged about 10 years, a third standard student, in the accident occurred on 07.12.2012.

2. Heard Mrs.Salim Fathima, learned counsel for the appellants and Mrs.R.Sreevidhya, learned counsel for the second respondent/insurance company.

3. The only question to be decided is with regard to the quantum of compensation, as the claimants alone have come before this court.

4. The Tribunal determined the loss of income by taking Rs.15,000/- as annual notional income and deducting 1/3rd towards personal expenses and applying multiplier 15, determined the loss of income at Rs.1,50,000/-. A sum of Rs.25,000/- each towards love and affection of the appellants, Rs.25,000/- towards funeral expenses, Rs.5,000/- towards transportt expenses and Rs.1,00,000/- towards future prospects were awarded. Totally a sum of Rs.3,30,000/- was awarded.

5. In a similar circumstances, the Hon'ble Supreme Court in Kishan Gopal and another vs. Lala and others reported in (2013) ACC 878 (SC) has held that for the death of a student, took Rs.30,000/- as notional income of the deceased student observing that Rs.15,000/- determined as loss of notional income of a non-earning member in 1988 may not reflect the correct position based on the value of money, purchase power, inflation etc. Therefore, this court also determines the annual income of the deceased at Rs.30,000/- following the above judgment.

6. The age of the mother is 30 years. For the age of the mother, the appropriate multiplier is 16. Therefore, the loss of income would be $\text{Rs.30,000} \times 16 = \text{Rs.4,80,000/-}$. Under the conventional heads a sum of Rs.50,000/- is awarded. Thus, the award of Rs.3,30,000/- is hereby enhanced to Rs.5,30,000/-. The rate of interest awarded by the Tribunal at the rate of 7.5% per annum shall remain unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.3,30,000/- to Rs.5,30,000/- along with interest @ 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent/insurance company is directed to deposit the entire amount along with interest and cost within four weeks. From the date of such deposit, the claimants are permitted to withdraw their respective shares as per the ratio fixed by the Tribunal and the minor share shall be invested in interst bearing deposit as per the terms of the Tribunal, within one week thereafter. However, there shall be no order as to cost.

WEB COPY

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

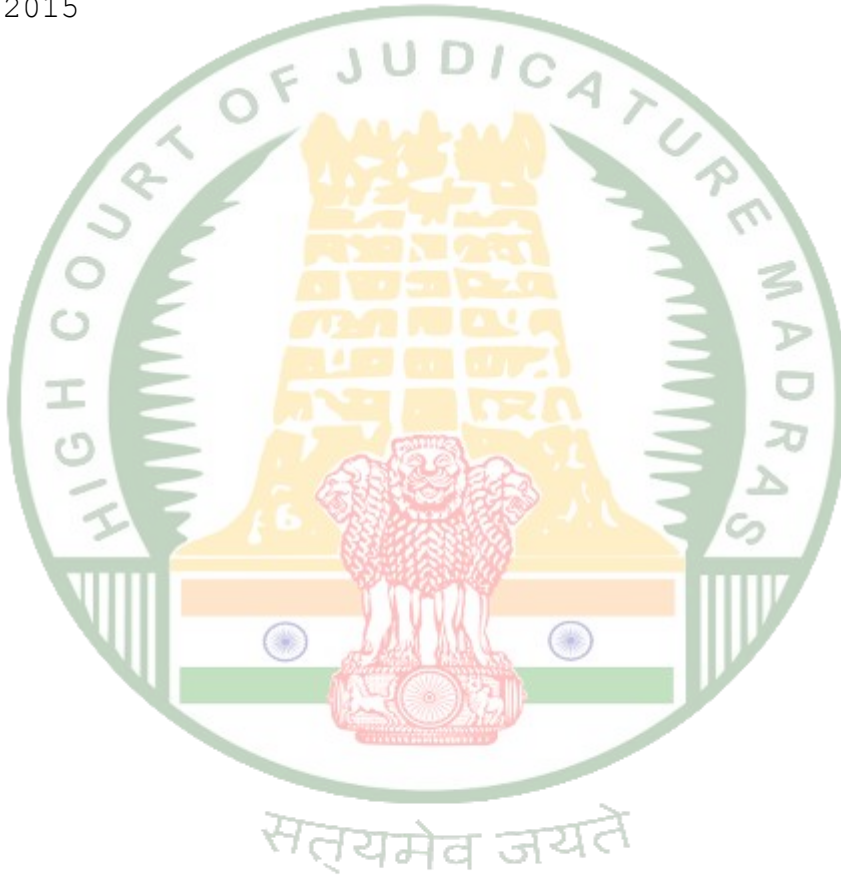
To

The Motor Accident Claims Tribunal
(Chief Judge, Small Causes Court), Chennai

+1cc to Mr.S.RaviKumar, Advocate sr.32255
+1cc to M/s.R.Sreevidya, Advocate sr.32408

C.M.A.No.1038 of 2015

rv[co]
srg 07.08.2015



WEB COPY