

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR  
and  
THE HON'BLE MR. JUSTICE M.VENUGOPAL

C.M.A. No.1922 of 2015

M/s.Reliance General Insurance Company  
Limited, Rai Tower, II Floor, No.2054,  
Second Avenue, Anna Nagar,  
Chennai-40. .... Appellant/2nd Respondent

Vs.

1.D.Devi  
2.D.Karthikeyan (Minor)  
3.D.Kamalesh (Minor)  
respondents 2 and 3 minors  
rep. by mother and Natural  
Guardian 1<sup>st</sup> respondent

4.R.Ayyammal  
5.D.Renu Gounder .... Respondents 1 to 5/Claimants

6.A.Suresh .... 6th Respondent/1st Respondent

Appeal against the judgment and decree dated 18.02.2015 in  
M.C.O.P.No.1913 of 2013 on the file of Motor Accidents Claims  
Tribunal, (Chief Judge, Court of Small Causes), Chennai.

For Appellant .. Mr.M.B.Raghavan  
..

JUDGMENT

(Judgement of the Court was delivered by S.MANIKUMAR, J.)

Being aggrieved by the quantum of compensation awarded by the  
Motor Accidents Claims Tribunal, the Chief Court of Small Causes,  
Chennai, Reliance General Insurance Company Limited has filed the  
present appeal.

2. Brief facts are that on 15.02.2013 about 07.05 hours, while the deceased was proceeding in a Motor Cycle bearing Registration No. TN-07-BL-7439 near Rajiv Gandhi Salai High Style Commercial Complex, opposite to Life Line Hospital, from north to south, a Drainage Water Lorry bearing Registration No. TN-04-T-4280, which was proceeding in front of him, took a turn towards east to have a turn and having failed in that attempt, drove the lorry in the reverse direction, hit the motor cycle and thereby caused fatal injuries to the deceased and due to that, he died. At the time of accident, the deceased was aged about 30 years and was doing catering service and earning a sum of Rs.25,000/- per month. The 1<sup>st</sup> petitioner is his wife and the 2<sup>nd</sup> and 3<sup>rd</sup> petitioners are their children and the 4<sup>th</sup> and 5<sup>th</sup> petitioners are the parents of the deceased. They further submitted that they preferred MCOP.No.1913 of 2013 on the file of the Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai claiming compensation of Rs.35,21,000/-. The 1<sup>st</sup> respondent as the owner of the lorry and the 2<sup>nd</sup> respondent-being the insurer of the said lorry are jointly and severally liable to pay the compensation to the petitioners.

3. The second respondent insurance company has filed a counter affidavit denying the manner of accident, age, avocation and income of the deceased and also the dependency of the claimants. The insurance company also contended that the accident occurred only due to the negligence of the deceased and not due to the rash and negligent driving of the driver of the vehicle bearing Registration No. TN-04-T-4280. It is also stated that the amount claimed as compensation under various heads is excessive. On the above grounds, prayed for dismissal of the claim petition.

4. To substantiate the claim, the first claimant/wife of the deceased examined herself as P.W.1, one V.Kannadhasan, eye witness has been examined as P.W.2 and one Madhaiyan has been examined as P.W.3. On the side of claimants, Exs.P1 to A14 have been marked. On the side of the respondents, no oral or documentary evidence has been adduced.

5. Upon consideration of oral and documentary evidence, the Tribunal held that the accident was due to the rash and negligent driving of the driver of the lorry-first respondent and as the second respondent, being the insurer of the lorry, held the company is liable to pay the compensation.

6. Though before the Tribunal, it was claimed that at the time of accident, the deceased was earning Rs.25,000/- per month, the Tribunal has taken the income at Rs.8,000/- and deducted 25% towards his personal expenses. Since the deceased at the time of accident was aged about 30 years, after adopting multiplier 17, the Tribunal calculated the loss of dependency at Rs.12,24,000/- ( $\text{Rs.8,000/-} \times \frac{3}{4} \times 12 \times 17 = \text{Rs.12,24,000/-}$ ). The Tribunal has awarded a total compensation of Rs.14,29,000/- as under:

|                            |                    |
|----------------------------|--------------------|
| Annual loss of dependency  | .. Rs.12,24,000.00 |
| Loss of Consortium         | .. Rs. 50,000.00   |
| Loss of Love and Affection | .. Rs. 1,25,000.00 |
| Funeral Expenses           | .. Rs. 25,000.00   |
| Transport Expenses         | .. Rs. 5,000.00    |
|                            | =====              |
| Total                      | : Rs. 14,29,000.00 |
|                            | =====              |

7. Since the appellant Insurance Company/2<sup>nd</sup> respondent in the Claim Petition has challenged the quantum of compensation alone, that too, in respect of the income fixed by the Tribunal, we are not dealing with the aspect of negligence and liability.

8. According to the respondents, at the time of accident, the deceased was aged about 30 years and by doing catering business, earned a sum of about Rs.25,000/- p.m. The claimants have marked Ex.P7 series - Wage Slips of the deceased, which shows that the deceased was getting salary of Rs.13,500/- during April, 2010 and thereafter, the deceased had resigned his job during December, 2012 and thereafter, he started Durai Catering Services. Accepting Ex.P7 series, the Tribunal fixed the monthly salary of the deceased as Rs.8000/-. Thereafter, the Tribunal has deducted 25% towards personal and living expenses. However, as per the decision of the Hon'ble Supreme Court in Smt.Sarla Verma and Others Vs. Delhi Transport Corporation and Others (2009 ACJ 1298 SC), for the age group between 26-30 years, the multiplier to be adopted is '17'. If multiplier 17 is adopted, loss of dependency works out to Rs.12,24,000/- (Rs.8,000/- x  $\frac{3}{4}$  x 12 x 17 = Rs.12,24,000/-).

9. The Tribunal has awarded a sum of Rs.50,000/- towards loss of Consortium, a sum of Rs.25,000/- each, towards loss of love and affection and Rs.25,000/- has been awarded towards funeral expenses. A sum of Rs.5,000/- has been awarded towards transport expenses. Going through the award in entirety, we are of the view that there is no manifest illegality in fixing the monthly income of the deceased and the method of computation in assessing the loss of contribution to the family. Therefore, we are of the view that the compensation awarded by the Tribunal is just and reasonable. We find no infirmity in the same. Hence, the award passed by the Tribunal is confirmed. The interest awarded by the Tribunal at 7.5% per annum is also confirmed.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. The Appellant Insurance Company is directed to deposit the entire compensation of Rs.14,29,000/- with interest, and costs to the credit of the above said MCOP, within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit, the respondents 1, 4 and 5/claimants 1, 4 and 5 are permitted to withdraw

the share apportioned to them with proportionate interest. Share of the minors, namely, respondents 2 and 3 are directed to be invested in any one of the Nationalised Banks under reinvestment scheme, proximate to the residence of the respondents 2 and 3/claimants and renewable thereafter. The interest accrued thereon is permitted to be withdrawn by the 1<sup>st</sup> respondent/mother of the respondents 2 and 3, until they attain majority. No costs.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

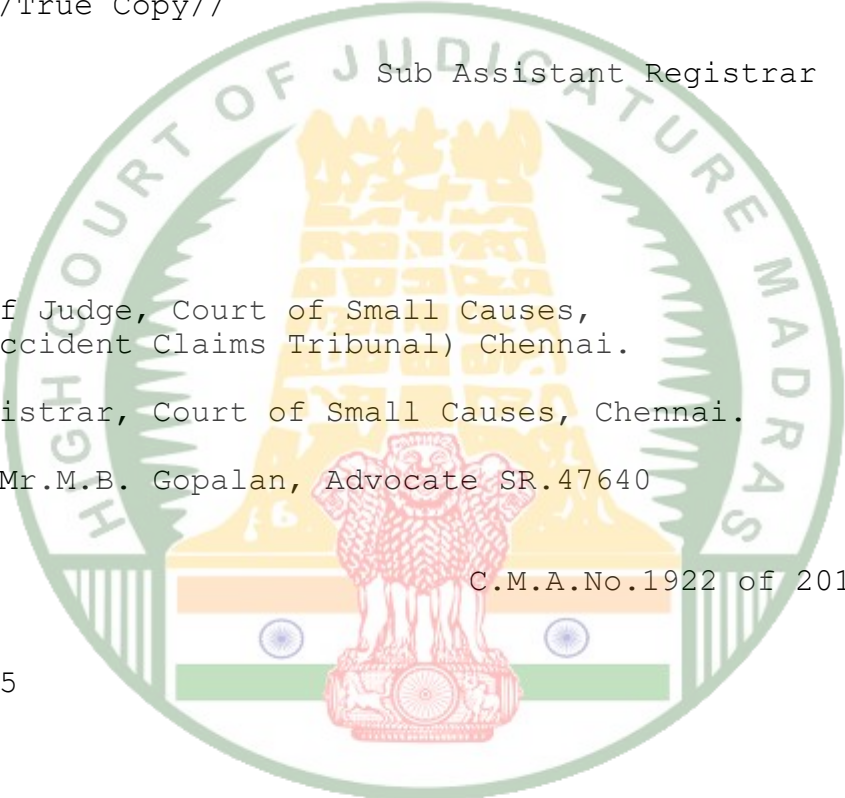
tsi

To

- 1.The Chief Judge, Court of Small Causes,  
(Motor Accident Claims Tribunal) Chennai.
2. The Registrar, Court of Small Causes, Chennai.
- + 1 cc to Mr.M.B. Gopalan, Advocate SR.47640

C.M.A.No.1922 of 2015

GR(CO)  
EU 19.10.15



सत्यमेव जयते

WEB COPY