

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 957 of 2015

1. Mahalingam
2. M. Geetha

...Appellants/Petitioner

Vs.

1. Pitchai
2. A.M. Jionnah
3. National Insurance Company Limited,
rep. by its Branch Manager,
Trichy Branch,
Branch Office No.11,
Jerome Building,
1st Floor, Fort Station Road,
Trichy.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicles Act, 1988 as against the judgment and decree 13.11.2009 passed in MACTOP No.146 of 2008 by the Motor Accidents Claims Tribunal (Additional District Court), Karaikal.

For Appellant : Mr.R. Natarajan

For Respondents : Mr.Venkatesh Kumar for R2
Mr.J. Chandran for R3

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants as against the award of Rs.1,75,000/- passed by the Motor Accidents Claims Tribunal (District Court), Karaikal, for the death of one Ramkumar, the only son of the appellants' herein, II year B.Tech student, aged about 19 years, in the accident, which

occurred on 10.04.2008.

2. Heard Mr.R. Natarajan, learned counsel for the appellants; Mr.Venkatesh Kumar, learned counsel for the 2nd respondent and Mr.J. Chandran, learned counsel for the 3rd respondent.

3. The only issue is with regard to the quantum of compensation awarded by the Tribunal.

4. The Tribunal, considering the fact that the deceased was a student, took annual notional income as Rs.15,000/-; deducted one-third towards "Personal Expenses; adopted multiplier 15 according to the age of the mother and arrived at Rs. 1,50,000/- towards "Loss of Income". The Tribunal also awarded a sum of Rs.5000/- towards "Funeral Expenses"; Rs. 20,000/- towards "Loss of love and affection" and totally, awarded Rs.1,75,000/- as compensation.

5. From the evidence of P.W.1, it is seen that the deceased was studying II Year B.Tech (Information Technology) and in this era of Information Technology, there is more demand for professionals in the said field and the income prospects for a B. Tech or B.E Degree holder with specialisation in Information Technology is comparatively more when compared to B. Tech or B.E Degree holders with other specialisations. Considering the said aspect, this Court determines the monthly income of the deceased at Rs.10,000/- including "Future Prospects". As the deceased was a bachelor, 50% is required to be deducted towards "Personal Expenses". Hence, "the monthly contribution of the deceased to his family" is calculated as follows:

Monthly Income
(Inclusive of Future Prospects) : Rs.10,000/-

Less:

50% towards 'Personal Expenses' : Rs.10,000/- (-) 50% (Rs.10,000/-)

: Rs.5000/-

The Tribunal adopted multiplier 15, as per II Schedule, taking into account, the age of the parents of the deceased. But, as per the judgment of the Honourable Apex Court in Amrit Bhanu Shali V. National Insurance Company Limited reported in 2012 11 SCC 738, the choice of multiplier should be according to the age of the deceased and as per the age of the deceased, the appropriate multiplier is 18. Applying the same, "Loss of Income" is arrived at as hereunder:

Loss of Income : Rs.5000/- x 12 x 18
: Rs.10,80,000/-.

The amount of Rs.20,000/- awarded towards "Loss of love and affection" to the appellants herein, who lost their only son, requires to be enhanced and accordingly, the said amount is enhanced to Rs. 1 lakh. The amount awarded towards "Funeral Expenses", namely, Rs.5000/- also seems to be low and the same is enhanced to Rs.15,000/-. In all, a sum of Rs.11,95,000/- rounded off to Rs.12 lakhs is payable as compensation to the appellants. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

6. The 3rd respondent Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of one week thereafter. The appellants shall pay additional court-fee for the enhanced amount.

7. In the result, the Civil Miscellaneous Appeal is allowed enhancing the award passed by the Tribunal from Rs.1,75,000/- to Rs.12 lakhs. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nv

To

The MACT (District Court),
Karaikal

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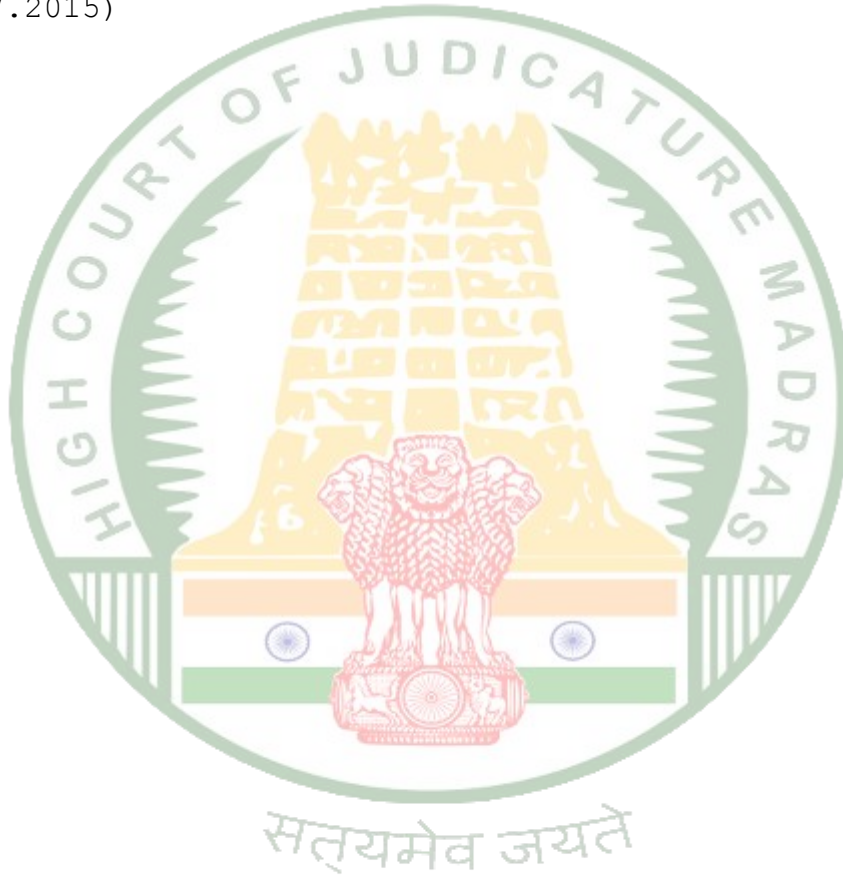
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The Section Officer,
V.R.Section,
High Court, Madras.

2 CCs to Mr.R.Natarajan, Advocate SR.No. 35069

C.M.A. No. 957 of 2015

JSV (CO)
PSI (31.07.2015)



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