

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.NO.2840 OF 2014

and M.P.Nos.1 of 2014 and 1 of 2015

The New India Assurance Company Limited,
No.45, Moore Street, 5th Floor,
Chennai - 1. .. Appellant/Respondent 2

Vs.

1. Manjula ..Respondent1 / Petitioner1
2. S.Jayamohan (minor)
(second respondent minor
rep. by his mother and next friend
1st respondent) .. Respondents 1 /Petitioner2
2/Petitioners
3. G.Eswara Rajendran ..Respondent-3/Respondent-1

* * *

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 24.03.2014 made in M.C.O.P.No.952 of 2012 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai.

* * *

For Appellant : Mr.S.Manohar

For Respondents: Mr.K.Varadhakamraj for RR 1 and 2

JUDGMENT

This appeal has been preferred by the Insurance Company against the award of Rs.14,49,000/- for the death of one K.Sivaprakasam in the accident occurred on 13.02.2012, while the victim was standing in his mother cycle bearing No.TN 25 F 8439 on the left side of the road, which was hit by the van belonging to the third respondent, insured with the appellant.

2. Heard the learned counsel for the appellant and the learned counsel for the respondents 1 and 2.

3. The only point to be decided in this appeal is that the quantum of compensation. Though it is argued on behalf of the appellant that determination of Rs.6,000/- as monthly income as well as 50% towards future prospects are on the higher side, the said determination cannot be reduced, in view of the judgment of the Supreme Court in Syed Sathick V. Divisional Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459 (SC), wherein, the Hon'ble Supreme Court determined the monthly income of a vegetable vendor at Rs.6,500/- and added 50 % of income towards future prospects and determined the future income at Rs.3750/-. The accident in the said case occurred in the year 2008, whereas, in this case, the accident occurred in 2012. Therefore, the said determination of Rs.6000/- as monthly income and future prospects at the rate of 50%, that too for a 27 year old Driver, is justified.

4. Taking into consideration, the size of the family one-third of the amount was rightly deducted towards personal expenses and as per the age of the deceased, multiplier '17' was rightly applied and the loss of income was determined as follows :

$$\text{Rs.6000} + 50\% - 1/3 \times 12 \times 17 = \text{Rs.12,24,000/-}$$

5. A sum of Rs.25,000/- awarded towards funeral expenses is according to the dictum laid down by the Hon'ble Supreme Court in Rajesh and Others V. Rajbir Singh and Others reported in 2013 (3) CTC 883. Hence, the same is confirmed. However, a sum of Rs.50,000/- awarded towards consortium to the first respondent is low as per the judgment in Rajesh's case. Therefore, the same is enhanced to Rs.1,00,000/-, as she lost her husband at the age of 21 years itself, though the loss cannot be determined in term of money, the aforesaid amount is awarded.

6. A sum of Rs.50,000/- awarded to the second respondent minor child towards love and affection is low, as the minor child was aged 1 year at the time of accident and he lost the love and affection as well as care and guidance of the father throughout his life. Therefore, the same is enhanced to Rs.1,00,000/-.

7. A sum of Rs.1,00,000/- awarded towards loss of expectation of life is unwarranted and the same is deleted. Therefore, the award of Rs.14,49,000/- (Rupees Fourteen lakhs forty nine thousand only) along with interest at the rate of 7.5% granted by the Tribunal is confirmed.

8. It is represented by the learned counsel appearing for the appellant/insurance company that pursuant to the order of this Court, the entire amount awarded by the Tribunal has been deposited before the Tribunal. Accordingly, the first respondent/wife is permitted to withdraw her share of 50% within one week from the date of receipt of a copy of this order. As far as the share of the minor

second respondent /claimant 2 is concerned, the tribunal is directed to deposit the same in interest bearing Fixed Deposit in Indian Bank, High Court Branch, Chennai, till he attains majority. The first respondent, being the mother of the second respondent, is permitted to withdraw interest accrued thereon once in every three months.

9. With the above modification, this appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

To

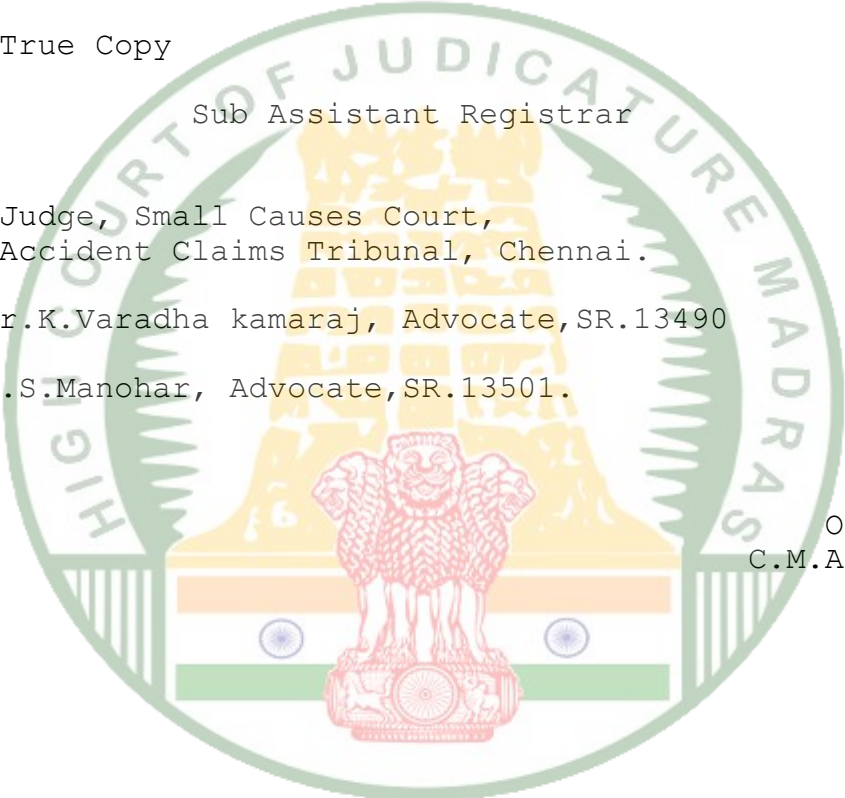
The II Judge, Small Causes Court,
Motor Accident Claims Tribunal, Chennai.

+1 cc to Mr.K.Varadha kamaraj, Advocate,SR.13490

+1 cc toMr.S.Manohar, Advocate,SR.13501.

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krd 9/4

ORDER IN
C.M.A.NO.2840 OF 2014



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