

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:9.1.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.3338 of 2014

1)Anjalai
2)Ramesh (Minor)
3)Sakthivel (Minor)
4)Sangeetha (Minor)....Appellants/Petitioners
(2 to 4 minor appellants rep. by her
mother and N.F. Ist appellant)

-Versus-

1)Rajamma Balakrishnan
2)The Oriental Insurance Co.Ltd.,
Oriental House,
No.216, Prakasam Salai,
Broadway,
Chennai-600 108.Respondents/Respondents

This Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act 1988 against the judgement and decree dated 20.02.2013 and made in M.A.C.T.O.P.No.650 of 2010 on the file of the Motor Accident Claims Tribunal, XVII Additional District and Sessions Judge, Chennai.

For Appellants : Mr.F.Terry Chellaraj

For Respondents : Mr.S.Manohar for R2

J U D G E M E N T

The appeal has been preferred by the claimants, aggrieved over the quantum of compensation awarded by the Tribunal, by which the death of one Ravi, husband of the first appellant in the accident occurred on 7.11.2009.

2. Heard the parties and perused the records. A perusal of the record would show that the deceased was stated to be a scrap merchant and was earning about a sum of Rs.10,000/- per month. The Tribunal taking notional income, determined the income of the deceased at Rs.4,500/- per month. The said determination is not correct. For the accident, which occurred on 14.2.2008, in respect of a vegetable vendor, Rs.6,500/- was taken as monthly income by the Hon'ble Supreme Court in Syed Sadiq v. Divisional Manager, United India Insurance Company Limited reported in 2014 (1) TNMAC 457. In this case, the accident occurred on 7.11.2009 and therefore, this court following the aforesaid judgement, determines the income as Rs.6500/- per month and adds 30% towards future prospectus. Thus the loss of income would be $\text{Rs.6000} + 30\% = \text{Rs.7800/-}$. As per the judgement of the Hon'ble Supreme Court in Sarla Varma vs. Delhi Transport Corporation reported in 2009 2 TNMAC (1), $1/4$ is required to be deducted towards personal expenses. After deduction towards personal expenses, the monthly contribution to the family would be $\text{Rs.7800/-} - 1/4 = \text{Rs.5850/-}$. According to the age of the deceased, as per Sarla Varma case, the appropriate multiplier is 14 and the loss of income is determined as follows:

$\text{Rs.6000} + 30\% - 1/4 \times 14 \times 12 = \text{Rs.9,82,800/-}$.

3. Rs.10,000/- awarded by the Tribunal towards loss of consortium to the first appellant is very low and the same is enhanced to Rs.1,00,000/- following the judgement of the Hon'ble Supreme Court in Rajesh & others vs. Rajbir Singh & others reported in 2013 (3) CTC 883. Rs.50,000/- awarded towards loss of love and affection for three children is confirmed. Towards transportation Rs.5000/- awarded by the Tribunal is low and the same is enhanced to Rs.10,000/-. Rs.5,000/- awarded towards funeral expenses is low and the same is enhanced to Rs.15,000/-. Since already future prospect is included, Rs.1,00,000/- awarded by the Tribunal towards future prospect is deleted. The rate of interest at 7.5% awarded by the Tribunal remains unaltered. Rs.7,00,000/- awarded by the Tribunal is enhanced to Rs.11,57,000/- rounded to Rs.11,57,000/-. Accordingly the appeal is disposed of. No costs. Consequently the connected M.P.No.1 of 2014 is closed.

4. The second respondent is directed to deposit the entire award amount as per the order of this court along with interest and costs within four weeks from the date of the receipt of a copy of the order and on such deposit, the appellants, except minor shares as per the ratio fixed by the Tribunal, are permitted to withdraw their respective shares of the award amount. The Tribunal is directed to

deposit the minor shares in the interest bearing fixed deposit in Indian Bank, High Court Branch, Chennai till they attain majority.

Sd/-
Deputy Registrar(J)

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Sub Assistant Registrar

vk

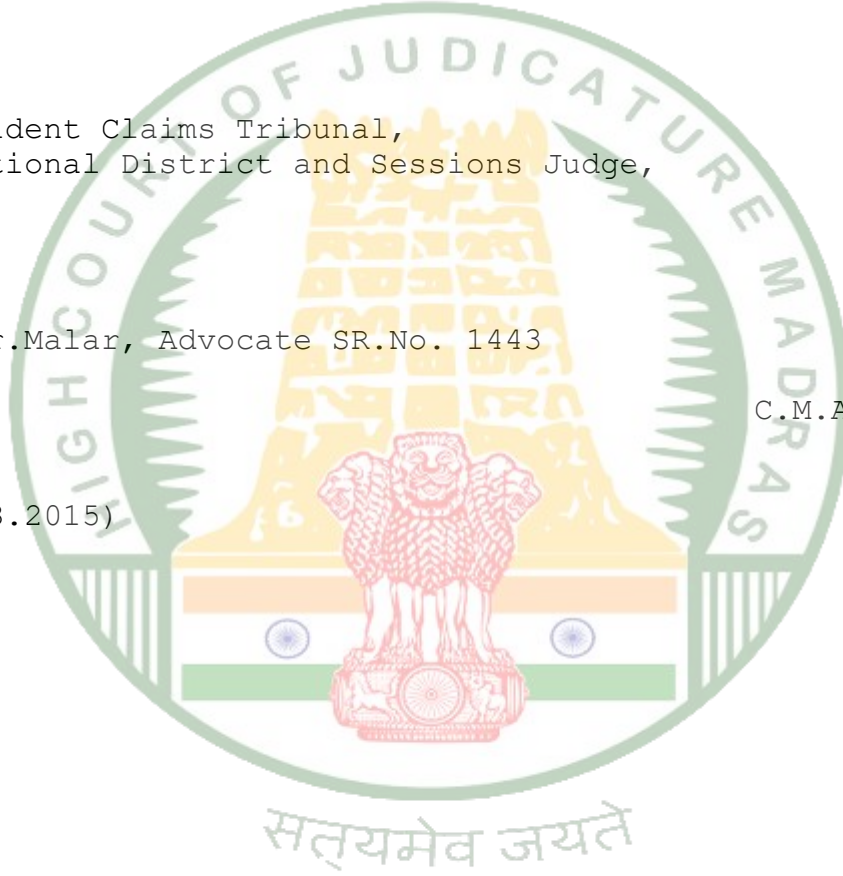
To

Motor Accident Claims Tribunal,
XVII Additional District and Sessions Judge,
Chennai.

1 CC to Mr.Malar, Advocate SR.No. 1443

C.M.A.No.3338 of 2014

SR (CO)
PSI (19.03.2015)



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