

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No.3543 of 2014

1. R.Vijayakumar

2. V.Lakshmipathy

... Appellants/Petitioners

Vs.

1. Bakthavatchalu

2. New India Assurance Co.,Ltd.,
No.45, V Floor, Moore Street,
Chennai 600 001.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act,1988, against the award and Decree dated 27.02.2012 passed in M.C.O.P.No.3638 of 2007 on the file of the Motor Accidents Claims Tribunal (Chief Judge, Small Causes Court), Chennai.

For Appellants : Mr. V.Velu

For 2nd Respondent : Mr. J.Chandran

J U D G M E N T

This appeal has been preferred by the claimants aggrieved over the quantum of Rs.5,08,000/- awarded for the death of one Vivek, aged about 18 years, who died in the accident occurred on 05.08.2007. Therefore, claim petition. Insurance Company has not come before this Court, by way of any appeal.

2. Heard Mr.V.Velu, learned counsel appearing for the appellants and Mr.J.Chandran, learned counsel appearing for the second respondent.

3. A perusal of the records would show that the Tribunal had taken Rs.200/- per day as earning and determined Rs.4,500/- as monthly. Since the determination of Rs.4,500/- is reasonable, this Court confirms Rs.4,500/- as monthly income and this Court is

not inclined to increase the other heads. However, the Tribunal adopted only multiplier 13, as per the Judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1.

4. As per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, 50% is required to be added as future prospectus and therefore, a sum of Rs.2,475/- is added and the monthly income is calculated at Rs. 7,275/-. Since the deceased was a bachelor, 50% is required to be deducted towards personal expenses and therefore, the loss of income is $\text{Rs.}7,275/2 = \text{Rs.}3,637.50/-$. This Court is inclined to add only 1/3 towards future prospects, the monthly income is determined as follows

$$\text{Rs.}4,500/- \times 1/3 = \text{Rs.}1,500/-$$

$$\text{Rs.}4,500/- + \text{Rs.}1,500/- = \text{Rs.}6,000/-$$

As per the second schedule, the age of the deceased as 18 and the appropriate multiplier to be adopted is 16. The loss of income is determined as follows:

$$\text{Rs.}6,000/- \times 50\% = \text{Rs.}3,000/-$$

$$3,000/- \times 12 \times 16 = \text{Rs.}6,54,750/-$$

5. Rs.20,000/- awarded towards loss of love and affection to the appellants, Rs.10,000/- awarded towards funeral expenses and Rs.10,000/- awarded towards loss of expectation of life is adjusted towards transportation and the same are hereby confirmed. Totally, a sum of Rs.6,16,000/- is awarded as compensation. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. Accordingly, the compensation awarded by the Tribunal is hereby enhanced from Rs.5,08,000/- to Rs.6,16,000/- is rounded to Rs.6,20,000/- in the following manner:-

1	Loss of income (Rs.36,000/-X 16)	5,76,000
2	Loss of love and affection to the appellants 1 & 2	20,000
3	Loss of expectation of life	10,000
	Funeral expenses	10,000
	Total	6,16,000

Rounded to Rs.6,20,000/-

7. The second respondent/Insurance Company is directed to deposit the said sum of Rs.6,20,000/- together with interest, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this order. On

such deposit being made, the first appellant is permitted to withdraw Rs.5,00,000/- and the second appellant is permitted to withdraw Rs.1,20,000/-.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kkd

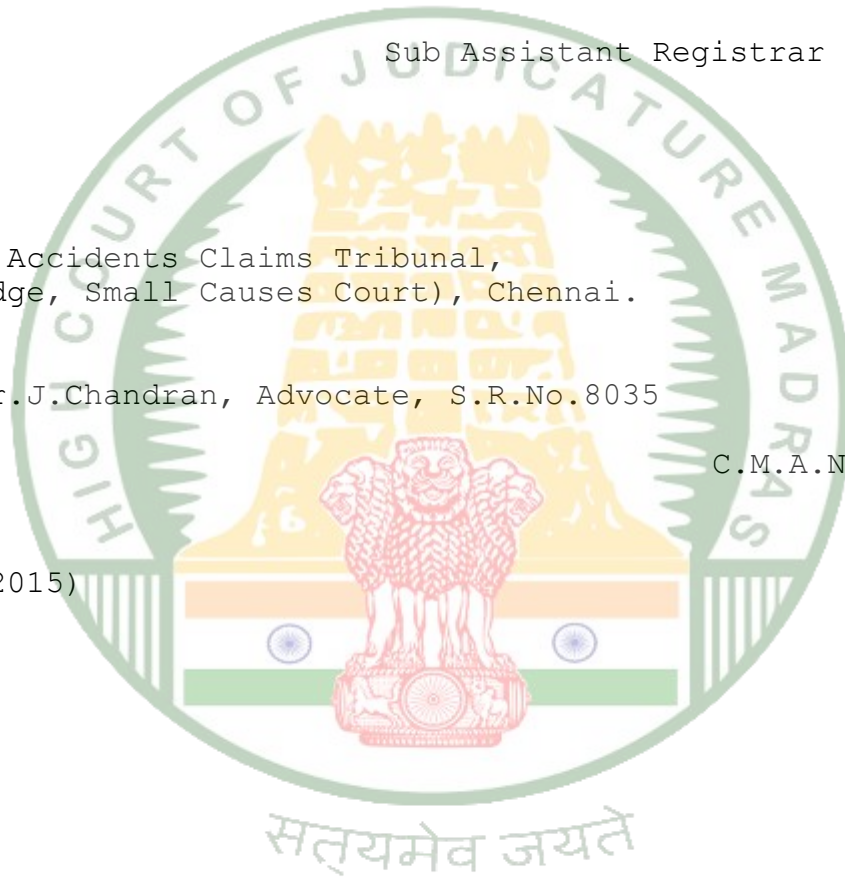
To

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

+1cc to Mr.J.Chandran, Advocate, S.R.No.8035

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GR(CO)
CA(03/06/2015)



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