

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A.No.445 of 2014

1.Kamatchi
2.Minor Ashok
3.Minor Subha
4.Elumalai

[Minor 2nd and 3rd Appellants are
represented by their guardian
mother 1st Appellant Kamatchi

... Appellants

vs.

1.Nallathambi
[R1 remained exparte before the tribunal]

2.Divisional Manager
Royal Sundaram Alliance Insurance
Company Limited,
No.45 and 46, Whites Road,
Chennai -600 014.

3.Ayoof Khan
[R3 remained exparte before the tribunal]

4.Divisional Manager
The New India Insurance Co. Ltd.,
No.42, Big Street,
Thiruvannamalai

... Respondents / Respondents

Civil Miscellaneous Appeal has been filed under Section 173
of Motor Vehicles Act against the judgment and decree dated
20.07.2012 and made in MACTOP No.429 of 2009 on the file of the
Motor Accident Claims Tribunal, District Judge, Thiruvannamalai.

For Appellants : Mr..F.Terry Chellaraja
For Respondents : Mr.S.Manohar
for R2
R1 & R3 - exparte

JUDGMENT

The appeal has been preferred by the claimants not satisfied
with the compensation of Rs.2,75,000/- awarded by the tribunal for

the death of one Ashwini, daughter of the 1st & 4th appellant herein, in the accident occurred on 03.09.2008.

2. After contest, the tribunal awarded a sum of Rs.2,75,000/- as compensation to the appellants/claimants. Aggrieved over the quantum only, the claimants are before this Court.

3. Heard Mr.F.Terry Chellaraja, learned counsel appearing for the appellants/claimants and Mr.S.Manohar, learned counsel appearing for the second respondent/insurance company.

4. The tribunal, without any calculation, awarded a sum of Rs.2,75,000/-. The tribunal ought not to have approximately awarded Rs.2,75,000/- and there should be a formulae by which it can be determined. The Hon'ble Supreme Court in Kishan Gopal & Anr vs Lala & Ors on 26 August, 2013 reported in 2013 (5) CTC 212 took Rs.30,000/- as the notional income for non-earning member, in view of the declining value of the money and rise in inflation and other parameters and applying multiplier as per the age of the mother of the deceased awarded a sum of Rs.5,00,000/- as compensation.

5. Following the above said judgment, this Court also re-determines the loss of income. Notional income determined in the said judgment per annum is Rs.30,000/-. The age of the mother of the deceased is 37 years and the appropriate multiplier is 15 and the loss of income is determined at Rs.4,50,000/- (Rs.30000 x multiplier 15). As far as the compensation under other conventional heads is concerned, a sum of Rs.50,000/- is required to be awarded as per the judgment cited supra and accordingly, a sum of Rs.50,000/- is awarded under conventional heads. Thus, the award of Rs.2,75,000/- awarded by the tribunal is hereby enhanced to Rs.5,00,000/-.

6. In the result, the Civil Miscellaneous Appeal is disposed of enhancing the compensation from Rs.2,75,000/-to Rs.5,00,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs.

7. The 2nd respondent/insurance company is directed to deposit the enhanced compensation alongwith interest at the rate of 7.5% from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants 1 & 4 are permitted to withdraw their share amount alongwith interest and cost, on the basis of ratio fixed by the tribunal. The share of the minor appellants / claimants 2 & 3 are directed to be deposited in any one of the Nationalised Bank under interest bearing fixed deposit, till they attain majority.

8. The learned counsel for the appellants/claimants is directed to pay the requisite court fee for the enhanced compensation within a period of ten days from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

rgr

To

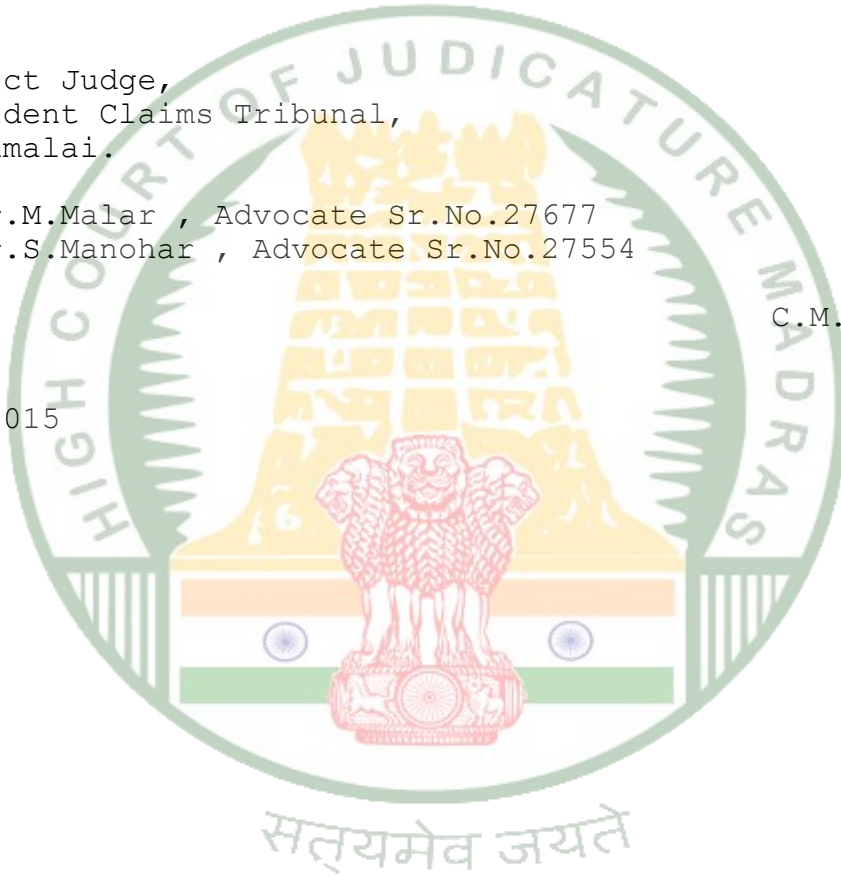
The District Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

1 cc to Mr.M.Malar , Advocate Sr.No.27677

1 cc to Mr.S.Manohar , Advocate Sr.No.27554

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EV (CO)
PMK.22.6.2015



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