

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.1548 of 2013

1.Nirmala

2.Minor M.Santhosh

3.Minor M.Nivetha

4.S.Punithammal

(Minor appellants are rep. by
first appellant)

...Appellants / Claimant

Vs.

1.Rameshraj

2.National Insurance Co. Ltd.,

No.661, Trunk Road,

Poonamallee, Chennai-56.

...Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 12.12.2012 made in M.C.O.P.No.981 of 2010 on the file of Motor Accident Claims Tribunal, (II Additional District Judge), Tiruvallur at Poonamallee.

For Appellants : Mr.K.Suryanarayanan

For Respondents : Mrs.Harini for

Mr.N.Vijayaraghavan for R-2

JUDGMENT

This appeal has been preferred by the claimants, not satisfied with the award of Rs.7,93,000/- for the death of one T.Manickam, the first respondent's husband, aged about 44 years, a Tailor earning a sum of Rs.20,000/-, in the accident, which occurred on 10.09.2010, while he was walking on the road and hit by a lorry, insured with the second respondent Insurance Company, driven rash and negligently.

2. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent. The only question to be decided with regard to the quantum of compensation.

3. The learned counsel appearing for the appellants would point out that though Rs.20,000/- was claimed as monthly income, only Rs.5,000/- was determined as monthly income and no future prospectus was added. Secondly, he would submit that only a sum of Rs.50,000/- was awarded towards loss of consortium to the first respondent, which is required to be enhanced.

4. On the other hand, the learned counsel appearing for the second respondent Insurance Company would support the award passed by the Tribunal.

5. The Tribunal in the absence of any proper proof rightly determined the monthly income at Rs.5,000/-. As the deceased was aged about 44 years, the future prospectus is required to be added and therefore 50% is required to be added towards future prospectus. Accordingly, the loss of monthly income would be Rs.5,000/- + 50% = Rs.7,500/-. As the size of the family is 4, $\frac{1}{4}$ is required to be deducted towards personal expenses and multiplier 15 is to be applied to derive the loss of income. Loss of income would be calculated as follows:

$$5000 + 50\% - \frac{1}{4} \times 12 \times 15 = 10,12,500/-.$$

6. The Tribunal awarded only Rs.50,000/- towards loss of consortium and the same is too meagre. As per the judgment of the Honourable Supreme Court in Rajesh and others Vs. Rajbir Singh and others reported in 2013(3) CTC 883, at least a sum of Rs.1 Lakh has to be awarded to the widow for loss of consortium. Accordingly, a sum of Rs.1,00,000/- is awarded. Rs.10,000/- awarded towards loss of love and affection to the respondents 2 and 3 and Rs.3,000/- to the 4th respondent is too low and the same is to be enhanced Rs.25,000/- each in all amounting to Rs.75,000/-. Rs.5,000/- each awarded towards Transportation and funeral expenses is too low and the same is enhanced to Rs.10,000/- each. The award of Rs.7,93,000/- is enhanced to Rs.12,07,500/- rounded to Rs.12,00,000. The rate of interest at 7.5% awarded by the Tribunal remains unaltered.

7. The Second respondent Insurance Company is directed to deposit the entire amount, minus the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants 1 and 4 are permitted to withdraw their respective share of the award amount, as per the apportionment of the Tribunal, within a period of two weeks thereafter. As far as the minors' shares are concerned, the same shall be deposited in an interest bearing Fixed Deposit with Indian Bank, High Court Branch, Madras-104, till they attain majority, within a week after the deposit of the award amount. The 1st claimant is permitted to withdraw interest accruing on such deposit once in three months.

8. In the result, the civil miscellaneous appeal is partly allowed as indicated above.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

rrg

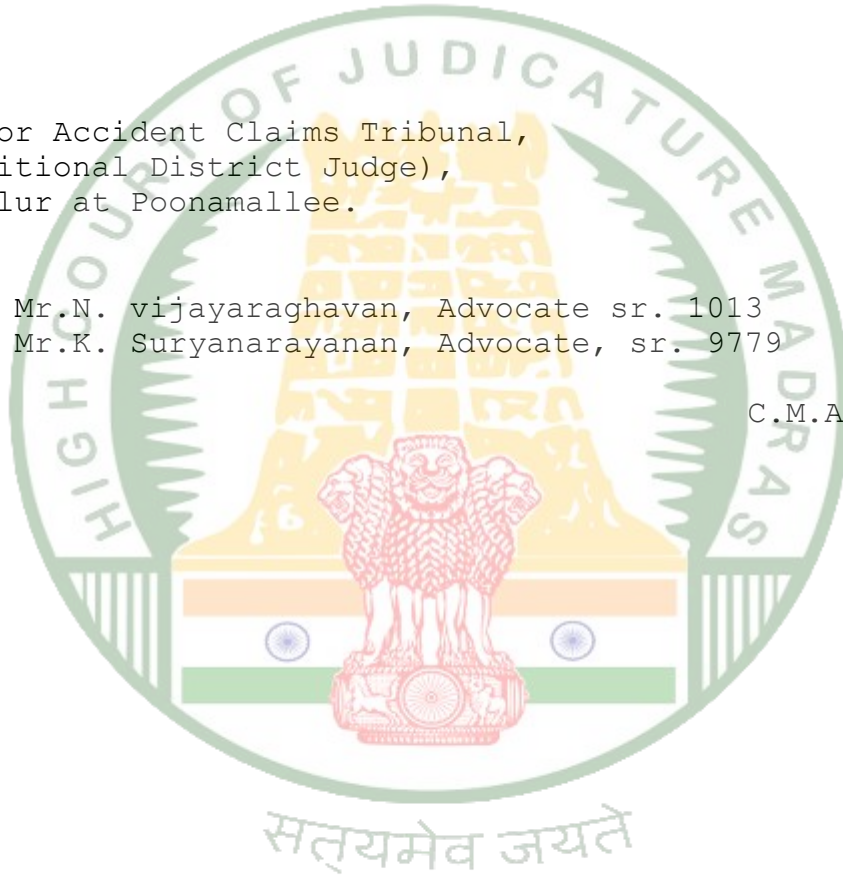
To

The Motor Accident Claims Tribunal,
(II Additional District Judge),
Tiruvallur at Poonamallee.

1 cc to Mr.N. vijayaraghavan, Advocate sr. 1013
1 cc to Mr.K. Suryanarayanan, Advocate, sr. 9779

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