

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 2681 of 2010

1. R. Murugasamy

2. Smt. Ganthimathi

... Appellants/Petitioners

Vs.

1. M. Sivachandran

2. K.S. Kalyani

... RR1 & 2 Exparte in Lower Court

3. M/s.ICICI Lombard General
Insurance Company Ltd.,
Vigneshvar crestra, 1st Floor,
1095, Avinashi Road,
Coimbatore 37.

... Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 08.04.2010 passed in M.C.O.P. No. 195 of 2009 by the Motor Accidents Claims Tribunal (I Addl. Dist. Court), Coimbatore.

For Appellants : Mr.UM. Ravichandran

For Respondent 3 : Mrs.R. Sreevidhya for R3

For R1 & R2 : Exparte

J U D G M E N T

Aggrieved over the quantum of compensation awarded by the Motor Accidents Claims Tribunal (I Addl. District Court), Coimbatore, for the death of a minor, by name M.Kirubakaran, aged about 16 years, studying in X standard, who died in the accident, which occurred on 10.04.2008, the parents of the said minor are before this Court in this Civil Miscellaneous Appeal.

2. Heard Mr.UM. Ravichandran, learned counsel for the appellants and Mrs.R. Sreevidhya, learned counsel for the 3rd respondent.

3. The only question to be decided is with regard to the quantum of compensation as the claimants alone have come before this Court seeking enhancement.

4. The Tribunal, as per II Schedule to the Motor Vehicles Act, 1988, took Rs.15,000/- as notional income of the deceased minor and adopted multiplier 16, as per the age of the mother and arrived at Rs. 2,40,000/- towards " Loss of Earning". Totally, a sum of Rs.2,61,100/- was awarded as compensation including the amounts under other conventional heads.

5. However, in similar circumstances, the Honourable Apex Court, in the judgment rendered in Kishan Gopal and another V. Lala and others, reported in (2014) 1 SCC 244 took Rs.30,000/- as the annual notional income of a 10 year old student, who died in an accident and adopted the multiplier, as per the age of the mother and arrived at Rs.4,50,000/- towards " Loss of Income" and further awarded Rs.50,000/- under "conventional heads". Therefore, following the said judgment, this Court, takes Rs.30,000/- as the annual notional income of the deceased in this case and applying multiplier 16, as per the age of the mother, " Loss of Income" is calculated thus:

Loss of Income :: Rs.30,000 x 16
:: Rs.4,80,000/-

As per the aforecited judgment, this Court awards Rs.50,000/- under "conventional heads". In all, a sum of Rs. 5,30,000/- is payable as compensation to the appellants. The rate of interest awarded by the Tribunal at 7.5% per annum remains intact.

6. The 3rd respondent Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, 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 appellants are permitted to withdraw their respective shares, as per the ratio fixed by the Tribunal, within a period of one week thereafter. The appellants shall pay additional court-fee for the enhanced amount, if any.

7. In the result, the Civil Miscellaneous Appeal is allowed enhancing the compensation awarded by the Tribunal, from Rs. 2,61,100/- to Rs.5,30,000/-.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

nv

To

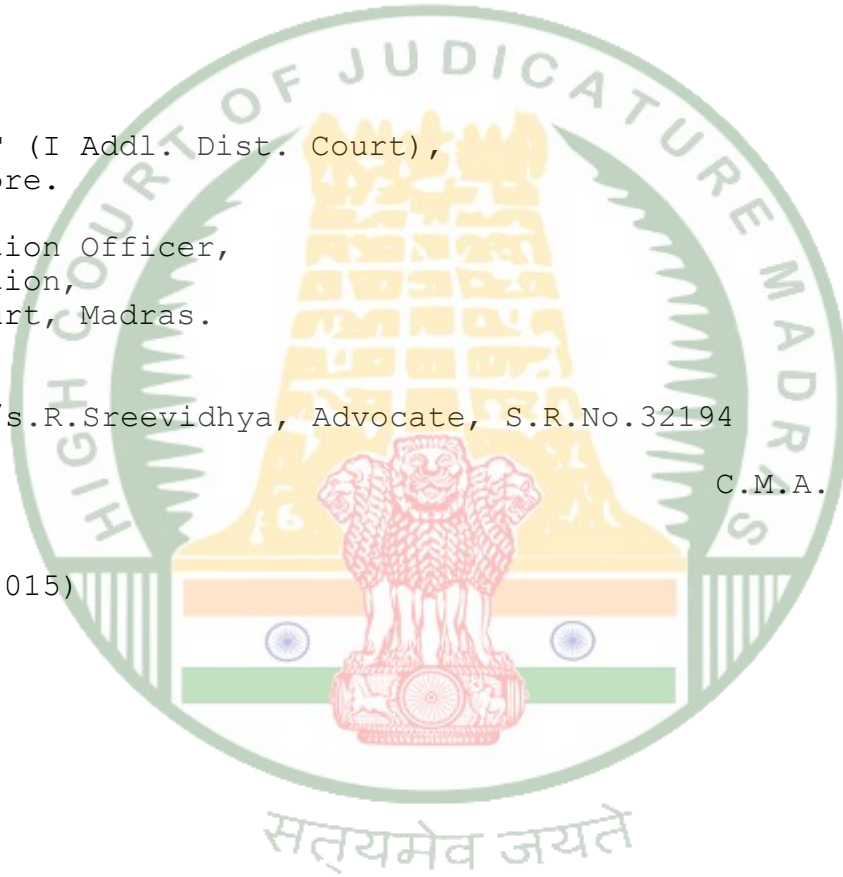
1.The MACT (I Addl. Dist. Court),
Coimbatore.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.R.Sreevidhya, Advocate, S.R.No.32194

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RV(CO)
CA(03/08/2015)



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