

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 3371 of 2013

&

M.P. No. 1 of 2014

The Branch Manager,
Oriental Insurance Co. Ltd.,
Branch Office, No.12,
Katpadi Road (II Floor),
Gudiyattam 632 602,
Vellore District.

..Appellant (2nd Respondent)

Vs.

1. Venkataraman
2. Rajamma
3. Siddhamma @ Amsa
4. M. Ramakrishnan

(4th respondent remained ex parte before
the Tribunal. Hence, summons to the
4th respondent may be dispensed with)

..Respondents
(Petitioners &
1st Respondent)

Prayer: Civil Miscellaneous Appeal as against the judgment and
decree dated 30.04.2013 passed in M.C.O.P. No. 51 of 2013 by the
Motor Accidents Claims Tribunal (District Court, Special Court for
Motor Accident Claims Cases), Krishnagiri.

For Appellant :: Mr.S. Manohar

For Respondents :: Mr.Mukund R. Pandian for
R1 to R3

J U D G M E N T

This Civil Miscellaneous Appeal has been filed as against the
award of Rs. 13,27,800/- in favour of respondents 1 to 3/Claimants
for the death of one Basappan @ Basavaraj, in the accident that
occurred on 10.07.2011, while he was driving a tempo, which was hit

by a bus insured with the appellant Insurance company and owned by the 4th respondent, driven in a rash and negligent manner. The Tribunal, in the claim petition, filed by respondents 1 to 3, found that the bus was driven rashly and negligently and awarded a sum of Rs. 13,27,800/-, which is now challenged before this Court.

2. Heard the learned counsel for the appellant and the learned counsel for respondents 1 to 3.

3. The only question in issue is with regard to the quantum of compensation awarded by the Tribunal.

4. Learned counsel for the appellant would submit that Rs.6000/- determined by the Tribunal as monthly income is on the higher side, in the absence of any proof. Besides, the deceased, being a bachelor, 50% deduction should have been made towards "personal expenses" whereas the Tribunal has deducted only one-third. Based on the above contentions, he seeks reduction of the award amount.

5. On the other hand, learned counsel for the respondents/claimants would support the award passed by the Tribunal.

6. Though the learned counsel for the appellant would submit the sum of Rs.6000/- determined as monthly income is on the higher side, the Honourable Apex Court, in the absence of any income proof, in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), which relate to an accident of the year 2008, determined Rs.6500/- as monthly income for a vegetable vendor. Whereas in this case, the accident occurred only on 10.07.2011. Therefore, following the judgment of the Honourable Apex Court, the monthly income of the deceased is fixed as Rs.6500/-. As per the judgment of the Honourable Apex Court in Sarla Verma's case, (2009 2 TN MAC 1 (SC)), since the deceased was aged about 25 years, 50% has to be added towards "Future Prospects". Hence, the monthly income would be Rs.6500 + 50% of Rs.6500 = Rs.6500/- + Rs.3250/- = Rs. 9,750/-. As rightly pointed out by the learned counsel for the appellant, since the deceased was a bachelor, 50% deduction has to be made towards "personal expenses". Accordingly, "loss of monthly contribution to the family" is determined as follows:

Monthly income	= Rs.9750/-
Less: 50% towards personal expenses	= Rs.9750/- (-) 50% of Rs.9750/-
"Loss of Monthly contribution to the family"	= Rs.4875/-

Since the deceased was aged about 25 years, the appropriate multiplier, as per Sarla Verma's case ((2009 2 TN MAC 1 (SC)) and the judgment of the Honourable Apex Court rendered in Amrit Bhanu Shali V. National Insurance Company Limited reported in 2012 11 SCC 738, would be 18. Hence, "Loss of Income" would be,

Loss of Income = Rs.4875 x 12 x18 = Rs.10,53,000/-.

7. Respondents 1 and 2, lost their only son and the 3rd respondent lost her only brother. She would have depended upon her brother for marriage alliance and if he had been alive, he would have conducted her marriage. Therefore, the loss of deceased is an irreparable one. Therefore, Rs.50,000/- awarded by the Tribunal towards "Loss of love and affection" is enhanced to Rs.1 lakh. The sum of Rs.5000/- awarded towards "Transportation Expenses" is too low and the same is enhanced to Rs.20,000/-. Similarly, Rs.20,000/- awarded towards "Funeral Expenses" is enhanced to Rs.25,000/-. The rate of interest @9% per annum stands confirmed. The appeal is partly allowed reducing the award from 13,27,800/- to Rs. 11,98,000/- rounded off Rs.12 lakhs.

8. The appellant is directed to deposit the entire amount within six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal within a period of two weeks thereafter. No costs. Connected M.P. is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

nv

To

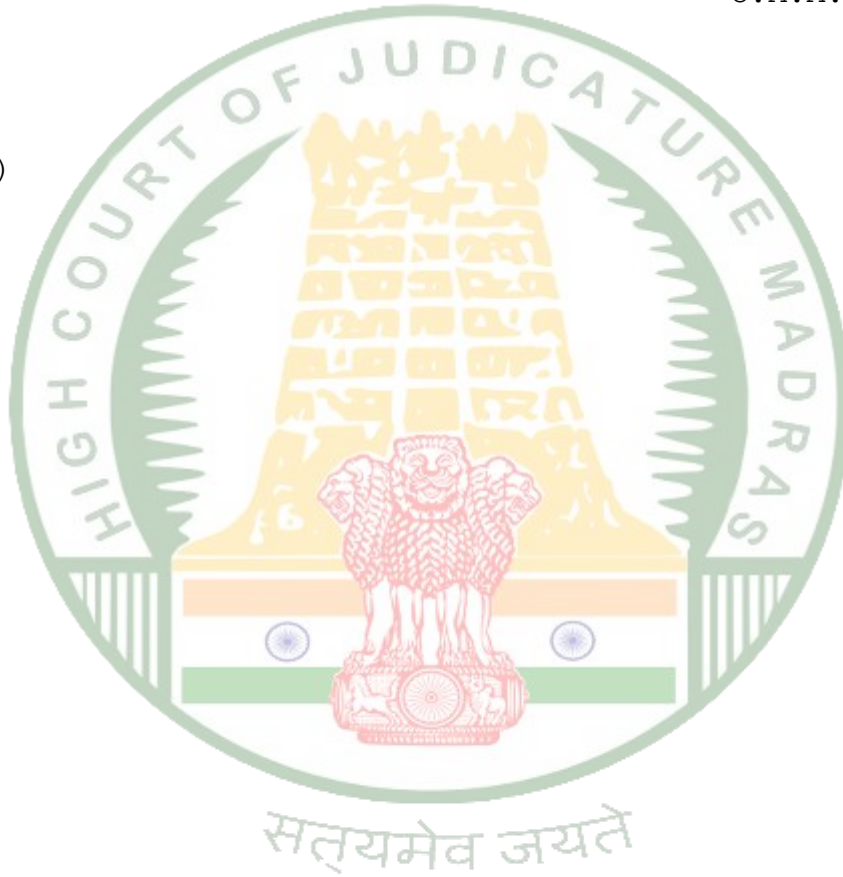
The MACT (District Court, Special
Court for Motor Accidents Claims
Cases), Krishnagiri.

1 cc to Mr.S. manohar, Advocate, Sr. 1461

1 cc to Mr. Mukund R. Pandiyan, Advocate, sR. 1281

C.M.A. No. 3371 of 2013

VSN (CO)
kk 12/2



WEB COPY