

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.3097 of 2013

1.Mary

2.Joseph Dhanraj

.. Appellants/Petitioner

Versus

1.S.Kala

2.Reliance General Insurance,
No.23, Spur Tank Road, Chetpet,
Chennai-35

.. Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 05.04.2013 made in M.C.O.P.No.3424/2009 on the file of the Motor Accidents Claims Tribunal, Chennai.

For Appellants : Mr.S.Udayakumar

For Respondents : No appearance for R1
Mr.S.Arunkumar for R2

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellants/ claimants, challenging the correctness of the impugned award dated 05.04.2013 made in M.C.O.P.No.3424/2009 on the file of the Motor Accidents Claims Tribunal, Chennai.

2.It is the case of the claimants that on 03.09.2009 at about 11.05 hours, when the deceased was proceeding in his motor cycle bearing Registration No.TN-20-BW-5510 from Vadapalani to Porur in Arcot Road, a lorry bearing Registration No.TN-21-AA-5820, came in a rash and negligent manner, hit the deceased. As a result, the deceased was thrown away and sustained head injuries and other bodily injuries and died on the way to hospital. According to the appellants/claimants, the accident was happened due to the rash and negligent driving of the driver of the lorry.

3.The sole contention of the learned counsel appearing for the appellants/claimants is that due to the death of the deceased, who was aged about 20 years at the time of accident, the poor old parents, were left orphan. Although Rs.5,40,000/- has been fixed towards loss of dependency, no amount has been fixed towards loss of love and affection by the Tribunal. Taking support from the ratio laid down by the Hon'ble Apex Court in the case of **Rajesh and others vs. Rajbir Singh and others reported in 2013 (2) TN MAC 55 (SC)**, which has categorically mentioned that with regard to the head 'loss of love and affection', a reasonable amount of compensation should be fixed, learned counsel for the appellants/claimants would submit that in the present case, a minimum sum of Rs.50,000/- should be fixed towards loss of love and affection. Similarly no amount has been fixed towards transportation and funeral expenses. Therefore, the award passed by the learned Tribunal being unreasonable and unjust, the present appeal has been filed and hence the same needs enhancement.

4.The contention raised by the counsel for the appellants/claimants that the learned Tribunal has erroneously overlooked the case of the appellants/ claimants and has not fixed any amount towards loss of love and affection and funeral expenses deserves agreement from this Court because as per the ratio laid down by the Hon'ble Apex Court in the above mentioned case of **Rajesh and others vs. Rajbir Singh and others reported in 2013 (2) TN MAC 55 (SC)**, this Court deems it fit to fix Rs.50,000/- each towards loss of love and affection and Rs.25,000/- towards Transportation and funeral expenses and accordingly the same are fixed. With regard to the head 'loss of income', this Court is inclined to confirm the same as awarded by the Tribunal and the same is confirmed. The modified compensation as per the above discussion are as follows:

Loss of income	...	Rs.5,40,000/-
Loss of love and affection	...	Rs.1,00,000/-
Transportation and funeral expenses	...	Rs. 25,000/-

Total	...	Rs.6,65,000/-

5.Accordingly, the Insurance Company/second respondent is hereby directed to deposit the above said enhanced amount with interest at 7.5% per annum, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the said amount, on making proper application.

6. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vga

To

1. The Motor Accidents Claims Tribunal,
Chennai.

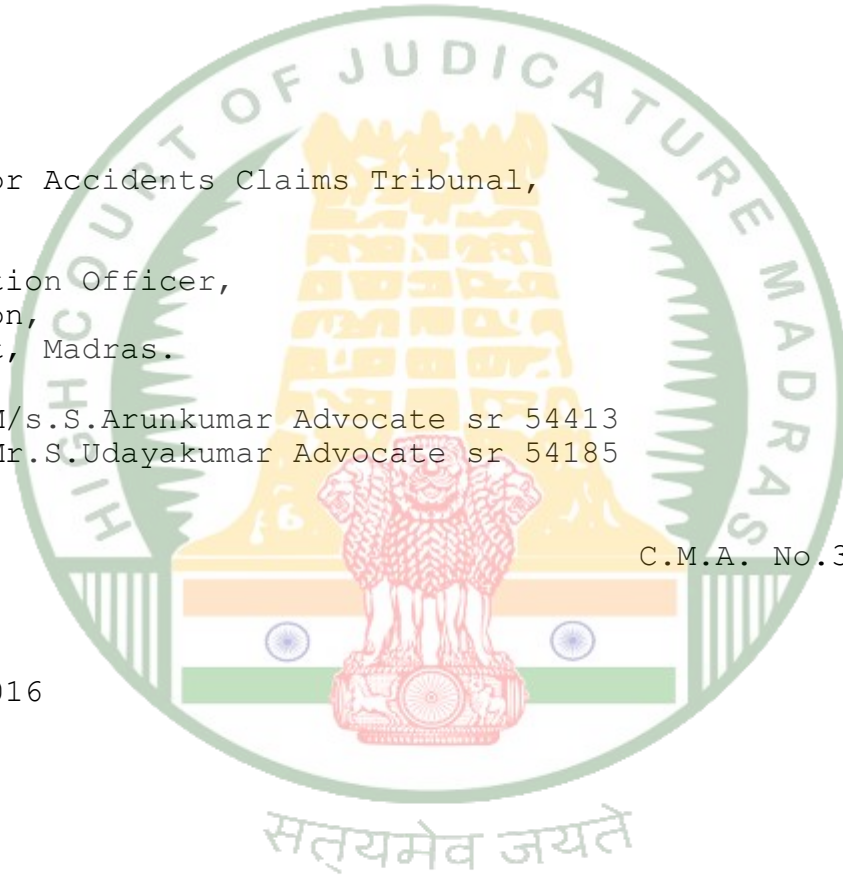
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1 cc to M/s. S. Arunkumar Advocate sr 54413

+1 cc to Mr. S. Udayakumar Advocate sr 54185

C.M.A. No. 3097 of 2013

rs1(co)
aa03/11/2016



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