

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2691 of 2015

1. Jayila
2. Minor Bala
3. Minor Nalan
4. Minor Roja
(Minors are represented by their
mother, 1st appellant)
5. Saroja
6. Packirisamy Appellants/Petitioner

Vs

1. Sundara Mahalingam
2. Shriram General Insurance Co. Ltd.,
represented by its Branch Manager,
Jaipur, Rajasthan. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in M.C.O.P.No.228 of 2014, dated 28.07.2015, on the file of Motor Accidents Claims Tribunal (District Judge), Nagapattinam.

For Appellants : Mr.P.Srividhya

For 2nd Respondent : Mr.S.Dhakshinamurthy

J U D G M E N T

[Judgment of the Court was made by S.MANIKUMAR, J.]

Not satisfied with the quantum of compensation of Rs.17,75,000/- with interest, at the rate of 7.5% per annum, from the date claim, till deposit and costs, legal representatives of the deceased have filed the instant appeal for enhancement. At the time of accident, the deceased was aged 34 years and served in Indian Army.

2. Going through the award and material on record, it could be deduced that while the deceased was riding his motor cycle, bearing Registration No.TN 51 F 4294, at Neermulai, ECR Road, near Pallivasal, the first respondent's TATA Ace Load Auto, bearing Registration No.TN 49 AJ 8464, driven by its driver in a rash and negligent manner, hit the motor cycle, due to which, the motorcyclist sustained grievous injuries and succumbed to the same, in the hospital. Legal representatives have filed M.C.O.P.No.228 of 2014, on the file of Motor Accidents Claims Tribunal (District Judge), Nagapattinam, claiming compensation under various heads.

3. On the basis of oral and documentary evidence, the Claims Tribunal held that the driver of the TATA Ace Load Auto, was negligent in causing the accident. Fixing the monthly income as Rs.12,000/-, the Tribunal awarded compensation of Rs.17,75,000/-, with 7.5% per annum, with interest and costs, as follows:-

Pecuniary loss	...	Rs.16,32,000/-
(Rs.12,000 x 2/3 x 12 x 17)		
Loss of consortium	...	Rs. 20,000/-
Loss of love and affection	...	Rs. 1,20,000/-
Funeral expenses	...	Rs. 3,000/-

		Rs.17,75,000/-

4. On the appeal filed for enhancement of compensation, we have requested the learned counsel for both parties to consider the award made various heads and as to whether compensation could be enhanced, on the principle of just compensation.

5. Going through the same and after deliberation, learned counsel for the parties, on consensus agreed that compensation awarded by tribunal should be enhanced to Rs.69,46,348/-, as hereunder:

Gross Salary as on 31.01.2014 - Rs.30,729/-

Computed Gross Salary per annum - Rs.3,68,748/-

Income-Tax calculation for the Financial Year 2013-14
(ie., from 01.04.2013 to 31.03.2014)

Deductions	Percentage of deduction	Amount
Permissible deductions from Gross Salary, under Sections 80C, 80CC, 80CCD	Maximum Rs.1,00,000/-	Rs.3,68,748/- Rs.1,00,000/- (-) <u>Rs.2,68,748/-</u>
Upto Rs.2,00,000/-	Nil	Rs.68,748/-
From Rs.2,00,000/- to Rs.5,00,000/-	10%	Rs.6,875/- (+)
From Rs.5,00,000/- to Rs.10,00,000/-	20% + Rs.30,000/-	Nil
About Rs.10,00,000/-	30% + Rs.1,30,000/-	Nil
Education Cess	2% at the Tax	(+) Rs.138/-
Surcharge	1% at the Tax	(+) Rs.69/-
	Tax liability	Rs.7,082/-

Gross annual income : Rs. 3,68,748/-
 Income-Tax : Rs. 7,082/-
 (+) -----
 Annual income : Rs. 3,61,686/-

 50% towards future prospects : Rs. 1,80,848/-
 (+) -----
 Annual contribution to the family : Rs. 5,42,529/-

 After ¼th deduction towards personal and living expenses : Rs. 1,35,632/-
 (+) -----
 : Rs. 4,06,897/-

Since the deceased is aged 34 years, multiplier to be applied is 16 and after applying the same, loss of contribution to the family works out to : Rs.65,10,352/-

Loss of Consortium : Rs. 1,00,000/-
 Loss of Love and affection : Rs. 3,00,000/-
 Funeral expenses : Rs. 25,000/-
 Transportation : Rs. 10,000/-
 Damages to clothes and articles : Rs. 1,000/-
 Total -----
 : Rs.69,46,352/-

Compensation awarded by the Tribunal : Rs.17,75,000/-

In the light of consensus,
amount is enhanced to : Rs.51,71,352/-

6. In the light of consensus arrived at, appellants/claimants are entitled to an enhanced compensation of Rs.51,71,352/-, as against Rs.17,75,000/- awarded by the tribunal, with interest, at the rate of 7.5% per annum, from the date claim till deposit.

7. The appellant-Insurance Company is directed to deposit the enhanced compensation amount, with interest, at the rate of 7.5% per annum, from the date of claim till deposit and costs, less the statutory deposit, to the credit of M.C.O.P.No.228 of 2014, on the file of Motor Accidents Claims Tribunal (District Judge), Nagapattinam, within a period of four weeks from the date of receipt of a copy of this order. Enhanced compensation is apportioned hereunder:

Wife : Rs.10,00,000/-

Minor children : Rs.30,00,000/-

Parents : Rs.11,71,352/-

8. On such deposit, appellants 1, 5 and 6/claimants are permitted to withdraw the same, by making necessary applications before the tribunal. Shares of the minors, respondents 2 to 5, shall be deposited in any one of the Nationalised Banks, under a fixed deposit scheme, initially for a period of three years. The interest accruing on the share of the minors shall be paid to the guardian once in three months, till they attain majority.

9. The Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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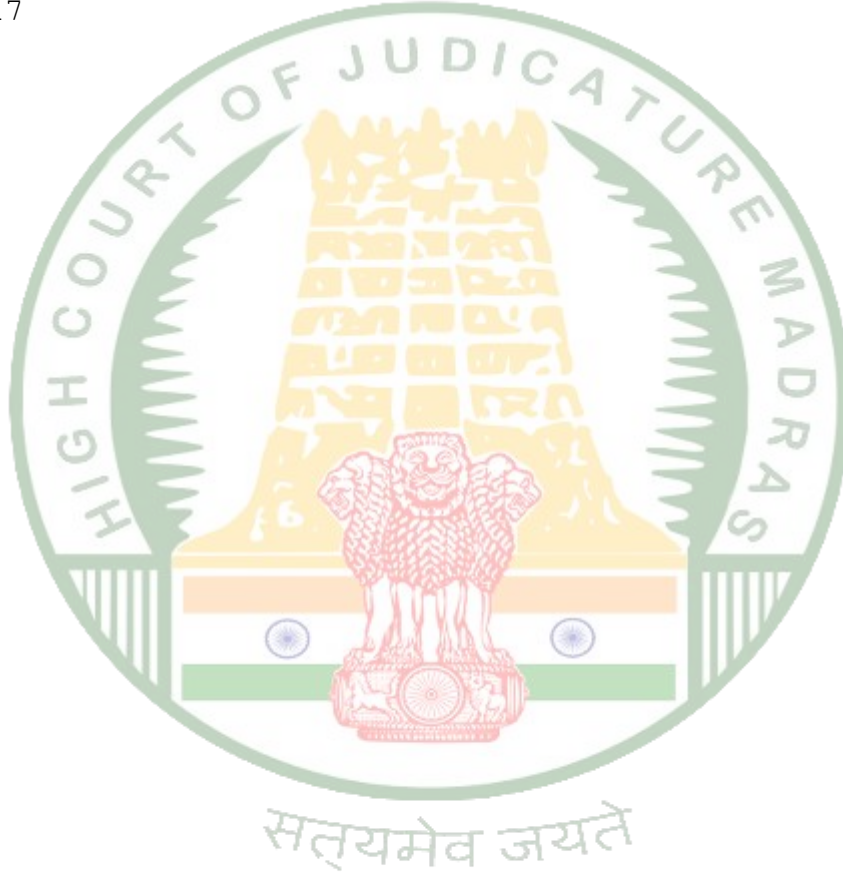
The Motor Accidents Claims Tribunal
(District Judge), Nagapattinam.

+1cc to Mr.A.Muthukumar, Advocate, S.R.No.39692

+1cc to Mr.S.Dhakshnamoorthy, Advocate, S.R.No.39912

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KJ(CO)
CS/02/08/17



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