

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2799 of 2016

and CMP No.20249 of 2016

M/s. Reliance General Insurance Co. Ltd.,
Rai's Tower, 2nd Floor, Plot No.2054,
2nd Avenue, Anna Nagar,
Chennai - 40 ... Appellant/2nd Respondent

..Vs..

1. Bharathi ...Respondent/Petitioner
2. M/s. Solaimalai Express,
No.7 Mangayarkarasi College Road,
Solai Malai Nagar, Paravai,
Madurai 625 402
3. V.Nandakumar ... Respondents/2nd & 3rd Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 31.03.2016, made in MCOP No.6109 of 2013 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr. S.Arunkumar
For Respondents : Mr. Vardhakamaraj

J U D G M E N T

In respect of the death of the deceased, Veda @ Vedavarthini, aged 10 years, a student, the mother filed a claim petition, claiming compensation of a sum of Rs.10,00,000/-.

2. The Tribunal has awarded a sum of Rs.9,00,000/- as compensation and the breakup details are as follows:-

Pecuniary Loss	-	Rs.7,20,000.00
Compensation for Loss of love and affection	-	Rs.1,00,000.00
Funeral Expenses	-	Rs. 25,000.00
Loss of Estate	-	Rs. 55,000.00

		Rs.9,00,000.00

3. The appellant / Insurance Company has challenged the award on the ground that the pecuniary loss awarded is excessive.

3.1. The Tribunal has taken the notional income of the deceased at Rs.35,000/-, by relying upon the dictum of ruling reported in 2015 (2) TNMAC 490 (DB) (National Insurance Company Ltd. v. R.Vimala) where the notional income of the child aged 10 years was taken at Rs.5,000/- per month and quantification was done, after deducting $1/3^{\text{rd}}$ towards personal expenses and by adopting multiplier of '18'.

4. The learned counsel for the appellant pointed out that the multiplier adopted by the Tribunal is '15' and not '18', as per the decision reported in the case of Reshma Kumari & Ors vs Madan Mohan & Anr, reported in Civil Appeal No.4646 of 2009, dated 02.04.2013. It is pointed out by the learned counsel for the appellant that the deduction should be half of the monthly income and not $1/3^{\text{rd}}$ as done by the Tribunal. The learned counsel for the appellant would submit that the monthly income should be taken at least at Rs.6,000/-.

4.1. There is some force in the contention of the learned counsel for the appellant. If the monthly income is taken at Rs.6,000/- and deducting 50% towards the personal expenses, the monthly dependency would be Rs.3,000/- and by adopting the multiplier of '15', the loss of dependency would be Rs.5,40,000/- ($\text{Rs.3,000/-} \times 12 \times 15$). Therefore, the pecuniary loss is reduced from Rs.7,20,000/- to Rs.5,40,000/-.

4.2. Since the mother of the child has lost the child at a very young age, the compensation awarded towards loss of love needs increase, especially when the mother is not living with her husband. Hence, the compensation awarded under that head is enhanced from Rs.1,00,000/- to Rs.1,50,000/-. The compensation awarded towards other heads, namely, funeral expenses and loss to estate at Rs.25,000/- each, are reasonable and hence, they are confirmed as such.

5. In the result, this Civil Miscellaneous Appeal is partly allowed, by reducing the total compensation from Rs.9,00,000/- to Rs.7,40,000/- ($\text{Rs.5,40,000/-} + \text{Rs.1,50,000/-} + \text{Rs.25,000/-} + \text{Rs.25,000/-}$) and this amount of compensation shall be deposited by the appellant / Insurance Company, less the amount already deposited (less the period of condone delay in filing / representing the Appeal, if any), along with interest at 7.5% per annum, from the date of petition till the date of deposit,

within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / mother is permitted to withdraw the entire amount of compensation. No costs. Consequently, the connected CMP is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. Motor Accident Claims Tribunal, II Court of Small Causes,
Chennai

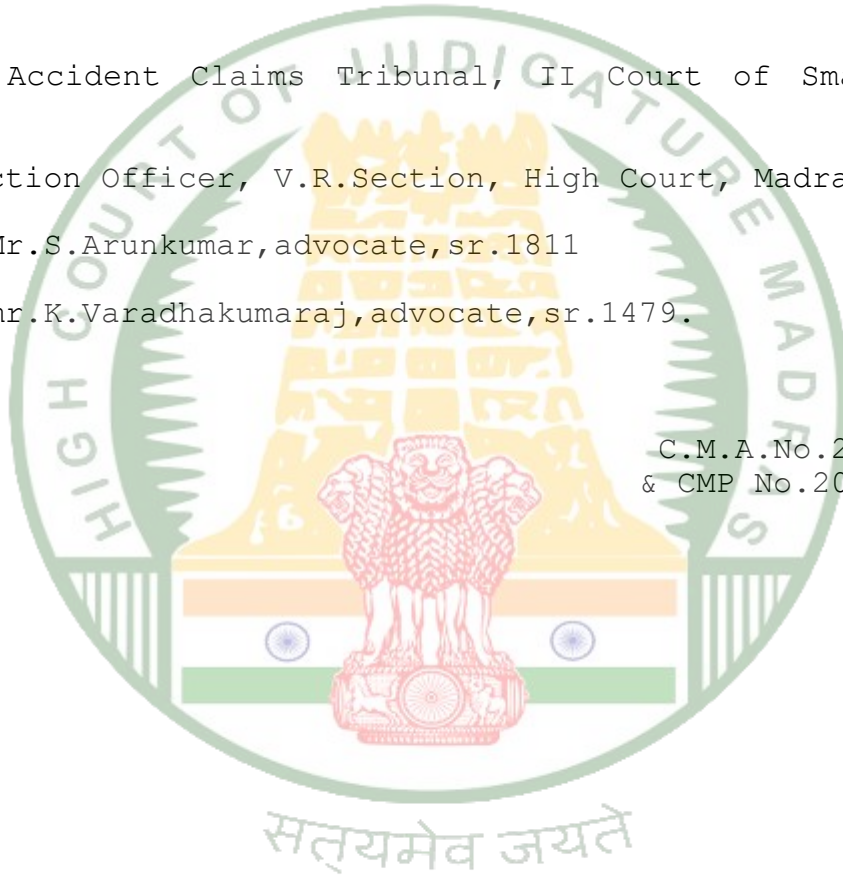
2. The Section Officer, V.R.Section, High Court, Madras

+1 cc to Mr.S.Arunkumar,advocate,sr.1811

+1 cc to mr.K.Varadhakumaraj,advocate,sr.1479.

scd(co)
krd 18/4

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& CMP No.20249 of 2016



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