

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.1966 of 2017

E.Pushparaj (since deceased)

P.Susila

... Appellant/petitioner

..vs..

1. Praveen Travels Private Limited,
6 Uma Complex, No.39 Medavakkam
Tank Road, Kellys, Chennai - 10
2. The New India Assurance Company Limited,
45 Moore Street, Chennai - 1 ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the decree and Judgment, dated 30.07.2009, made in M.C.O.P.No.1852 of 2005 on the file of the Motor Accident Claims Tribunal cum Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr. S.Ravikumar

For Respondents: Mr. Udhayashankar, for R-2

J U D G M E N T

The mother of the deceased, who is the only person alive as on date, has filed this Appeal, challenging the quantum of compensation as inadequate.

2. The deceased was her son, who was aged 21, a Colour Fish Merchant, self-employed, earning a sum of Rs.4,500/- per month, who died in an accident on 14.02.2005. The first petitioner as the father and the second petitioner as the mother have filed the claim petition. During the pendency of the claim petition, the first claimant, father, died and the only person alive is the mother.

3. The Tribunal has awarded a sum of Rs.3,42,000/-, that is under challenge by the claimant.

4. The learned counsel for the appellant would point out that the monthly income has not been properly fixed and that the future prospective increase in income has not been considered at all.

4.1. It is also pointed out that the monthly income should have been fixed at least at Rs.6,500/- per month.

4.2. Even in the case of Sadiq and others v. Divisional Manager, United India Insurance Co. Ltd., 2014 ACJ 627, for an agriculturist, monthly income has been fixed at Rs.6,500/- per month, but the accident, in this case, had taken place in the year 2005, therefore, the monthly income cannot be taken as Rs.6,500/-but it can be only taken at Rs.4,000/- per month. Adding 50% towards the future prospective increase in income, the monthly contribution would be Rs.6,000/-. As the deceased had been died as Bachelor, reducing 50% towards the personal expenses, the monthly contribution would be Rs.3,000/-. As the deceased had died at the age of 21, the multiplier to be adopted is '17'. Thus, the loss of dependency would be Rs.6,12,000/- (Rs.3,000/- x 12 x 17). Awarding a sum of Rs.5,000/- towards transport expenses, Rs.5,000/- towards cremation expenses, Rs.75,000/- towards loss of love and affection and Rs.3,000/- towards damage to clothing, the total amount of compensation is quantified at Rs.7,00,000/- and it is ordered accordingly.

5. In the result, the Civil Miscellaneous Appeal is allowed. The enhanced amount of compensation, as ordered by this Court, shall be deposited by the second respondent / Insurance Company, less the amount already deposited, 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. There is no liability to pay interest, if any, in respect of the period during which there had been delay (2163 days) in respect of which, condonation of delay has been ordered, subject to waiver of interest. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the major claimant through RTGS. The claimant / appellant shall pay the necessary court fee for the enhanced compensation amount before receiving the copy of the judgment. No costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

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To

1. Motor Accident Claims Tribunal cum Chief Judge,
Small Causes Court, Chennai.

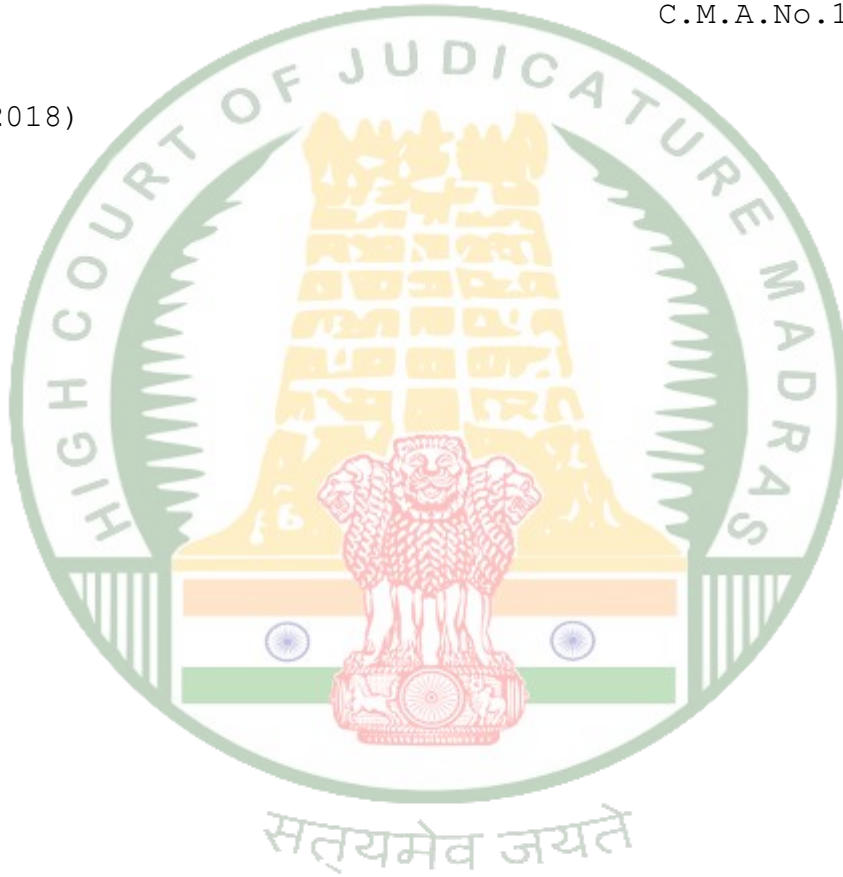
2. The Section Officer,
V.R.Section, Madras High Court, Chennai 104(2 COPIES)

+1cc to Mr.S.RAVIKUMAR, Advocate, S.R.No. 48897

+1cc to Mr.G.UDAYASANKAR, Advocate, S.R.No.49170

C.M.A.No.1966 of 2017

NMI (CO)
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