

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal Nos.2643 and 2724 of 2017

and C.M.P.No.15297 of 2017

1. Vedachalam

2. Saraswathi

... Appellants in CMA No.2643/2017 /
& Respondents in CMA No.2724/2017

...vs...

The Managing Director,
MTC Pallavan House,
Anna Salai, Chennai - 2

... Respondent in CMA No.2643/2017
& Appellant in CMA No.2724/2017

Appeals filed under Section 173 of Motor Vehicles Act 1988,
against the Judgment and Decree, dated 07.03.2014 made in
M.C.O.P.No.4995 of 2011 on the file of the Motor Accident Claims
Tribunal cum VI Judge, Small Causes Court, Chennai.

For Appellants in CMA No.2643 / 2017

& For respondent in CMA No.2724/2017 : Mr. S.Ravikumar

For Respondents in CMA No.2643 / 2017

& For appellant in CMA No.2724/2017 : Mr. K.S.Suresh

C O M M O N J U D G M E N T

Dhanasekaran, aged 14, a student, studying 9th Standard, met
with an accident on 05.07.2011, while traveling as a passenger
in MTC Bus, belonging to the Transport Corporation. He was
given First Aid Treatment in a private hospital and later,
referred to Government General Hospital at Chennai and took
treatment as inpatient from 05.07.2011 to 07.07.2011 and
succumbed to the injuries, on 07.07.2011. The legal
representatives / parents of the deceased claimant have filed a
claim petition, claiming a sum of Rs.6,00,000/-, as
compensation. The Tribunal awarded the claim as prayed for.

2. Branding the quantum of compensation awarded as
exorbitant, the Transport Corporation has preferred CMA No.2724
of 2017. Claiming the award as insufficient, the claimants /

Legal Representatives of the deceased have filed CMA No.2643 of 2017.

3. Since the issues involved in both these Civil Miscellaneous Appeals are inter-linked, they are taken-up together and a common judgment is passed. For the sake of convenience, the parties are referred to as per the original nomenclature in the claim petition.

4. The main contention of the learned counsel appearing for the claimants is that, had the deceased been alive, he would have certainly contributed substantially to the family of the claimants and hence the monthly income taken by the Tribunal at Rs.2,500/- is very meager and the Tribunal ought to have been taken at Rs.5,000/-, especially, when the deceased earned as Newspaper Supplier, having been aged only 14 years.

5. The procedure adopted by the Claims Tribunal, in awarding the quantum of compensation, cannot be faulted with, as that is the procedure contemplated in the second schedule of the Motor Vehicles Act. The Hon'ble Supreme Court has already pointed out that the amount of notional income fixed in the year 1994 ought to have been revised, but it has not been done by the legislature. Therefore, considering the escalation in the cost of living and reduction in the value of money, the notional income has to be taken at a higher level. However, in case of a boy, aged only 14 years, the loss to the parents would be unbearable.

6. The learned counsel for the Transport Corporation would submit that the accident was only on account of the negligence on the part of the deceased himself. It is the further case of the Transport Corporation that the Tribunal has rightly analyzed all the points and has awarded the compensation, which is just and reasonable and which does not require any interference by this Court.

7. The Tribunal has taken the notional income of the deceased at Rs.30,000/-, by relying upon the dictum of ruling reported in the case of Kishan Gopal and another v. Lala and others where the notional income of the boy aged 14 years was taken at Rs.30,000/- per month and quantification was done, by adopting multiplier of '15'. The learned counsel for the claimants would submit that the monthly income should be taken at least at Rs.5,000/-.

8. There is some force in the contention of the learned counsel for the claimants. If the monthly income is taken at Rs.5,000/- and adopting the multiplier of '15', the loss of dependency would be Rs.9,00,000/- (Rs.5,000/- x 12 x 15).

Therefore, the loss of dependency is quantified at Rs.9,00,000/-.

9. Since the parents of the boy have lost the child at a very young age, the compensation awarded towards loss of love and affection and mental agony and loss of expectancy of life need some increase. Hence, the compensation awarded under that two heads are enhanced from Rs.1,00,000/- to Rs.1,50,000/- and from Rs.25,000/- to Rs.1,25,000/-. The compensation awarded towards the head, funeral expenses at Rs.25,000/-, is reasonable and hence, the same is confirmed as such.

10. In the result, CMA No.2724 of 2017 filed by the Transport Corporation is dismissed and CMA No.2643 of 2017 filed by the claimants is partly-allowed. The total amount of compensation is quantified at Rs.12,00,000/- (from Rs.6,00,000/-), which is payable with interest at 6% per annum, from the date of petition till the date of deposit. No costs. Consequently, the connected CMP is closed.

11. The Transport Corporation shall deposit the enhanced amount of compensation, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of the judgment. The claimants are not entitled to any interest for the default period. The claimants shall pay the necessary court fee for the enhanced compensation before receiving the copy of the judgment. On the deposit being made, the Tribunal shall transfer the compensation amount to the Savings Bank Accounts of the claimants, in equal proportionate.

Sd/-

Asst.Registrar (CS VIII)

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Sub Asst. Registrar

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To

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

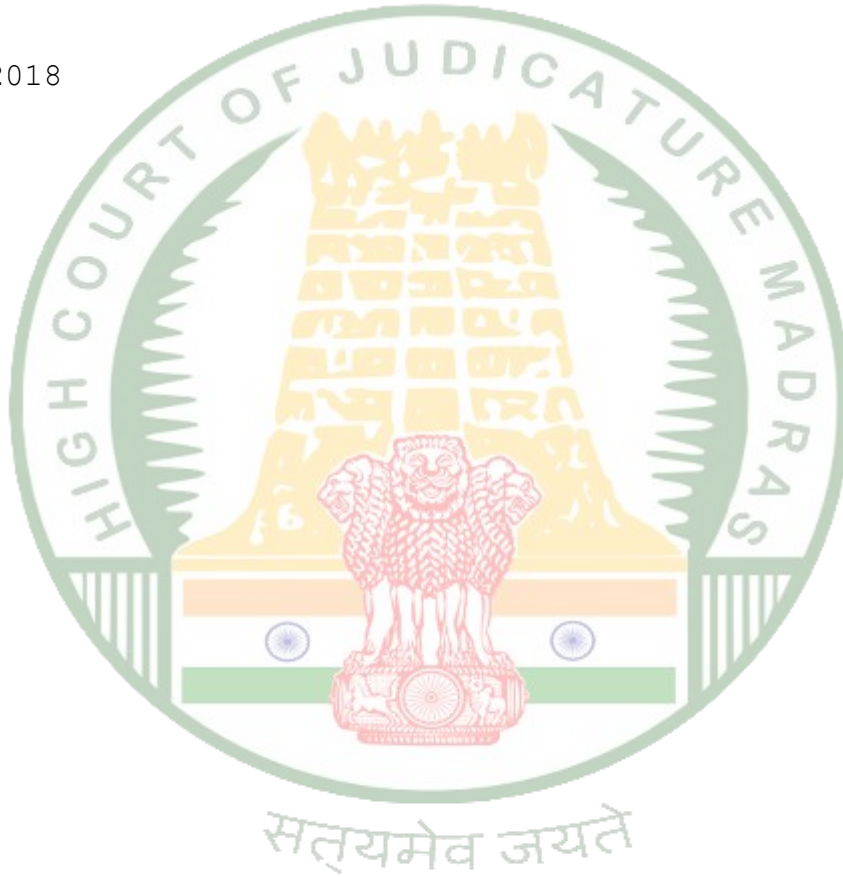
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104

+ 2 cc to Mr. S.Ravikumar Advocate,SR.65272,65271

+ 1 cc to Mr. K.S.Suresh Advocate,SR.65554

C.M.A.Nos.2643 and 2724 of 2017
and C.M.P.No.15297 of 2017

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