

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.2944 of 2014

1.Tmt.Anusiya
2.Dhatchayini (Minor)
3.Loganadhan (Minor)
4.Tmt.Kanakambal
(2nd and 3rd Petitioner being minor hence rep. By their mother
and natural guardian/1st petitioner)
.. Appellants/Petitioner

-Vs-

1. Sundaravadanam
2. United India Insurance Company Ltd.,
No.19, Andiappa Gramani Street,
Royapuram, Chennai-13.
..
Respondents/1 & 2 Defendants

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 20.01.2014 made in MCOP No.2865 of 2009 on the file of learned Special Subordinate Judge-I, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.T.G.Ravichandrran
For Respondents : R1-No Appearance
R2-Mr.J.Chandran

J U D G M E N T

[Judgement of the Court was delivered by C.T.SELVAM, J.]

This Civil Miscellaneous Appeal arises against the judgement and decree dated 20.01.2014 made in MCOP No.2865 of 2009 on the file of learned Special Subordinate Judge-I, Motor Accident Claims Tribunal, Chennai.

2. Appellants are the legal heirs of one Baskaran, who died owing to an accident while crossing the road, involving a motorcycle bearing registration No.TN-04-W-8770 on 11.05.2009.

Second respondent is the Insurance Company.

3. Before the Tribunal, on the side of Appellants/claimants, 3 witnesses were examined and 12 exhibits were marked. None were examined on the side of Second respondent/Insurance Company nor any exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgement dated 20.01.2014, found that the death has occurred owing to the rash and negligent driving of the motorcycle. To prove the avocation of the deceased, First Appellant/wife of the deceased was examined as PW-1 and Ex.P8-salary certificate of the deceased was marked, informing the salary details of deceased and based on the same, Tribunal has fixed the monthly income of the deceased at Rs.12,000/-. After arriving at the monthly income, Tribunal has deducted 1/4 towards his personal expenses and arrived at the salary of the deceased and thereafter, added 30% towards future earning prospects.

5. Heard learned counsel for appellants and learned counsel for second respondent/Insurance Company.

6. Learned counsel for appellants submitted that the Tribunal had erred in not including the City Compensatory Allowance provided to the deceased in computation of his monthly income through reference in Exs.P8 and P12, Salary Certificates of the deceased for the months of March, 2009 and April, 2009. Learned counsel for appellants submitted that both reflected a monthly miscellaneous earnings of Rs.2330/- by the deceased and the same also ought to have been included as his monthly income. Learned counsel further submitted that the grants made by Tribunal towards loss of consortium by the wife, love and affection and also funeral expenses were very low.

7. We have heard the learned counsel for the second respondent/Insurance Company on the above submissions.

8. We find merit in the submission of learned counsel for appellants that the salary certificate produced in Ex.P8 and Ex.P12, reflects the regular miscellaneous earnings of Rs.2330/- and the same ought to have been included as earnings of the deceased. Similarly, the City Compensatory Allowance also ought to have been included. Again, it would be just and appropriate to grant a sum of Rs.1,00,000/- towards loss of consortium and Rs.50,000/- for each of the minor children apart from granting Rs.50,000/- to the mother towards loss of love and affection. Funeral expenses must also be fixed at Rs.25,000/-.

9. Accordingly, the sum payable to the claimants shall be ordered as follows:-

(a) Pecuniary Loss	:	Rs. 14,04,000/-
(b) Loss of consortium	:	Rs. 1,00,000/-
(c) Loss of love and affection for two minor children & mother (50000*2+50000)	:	Rs. 1,50,000/-
(d) Funeral expenses	:	Rs. 25,000/-
(e) CCA 300/-	:	Rs.
(f) Miscellaneous Earnings	:	Rs. 2,330/-
(g) Transport	:	Rs. 25,000/-

		Rs. 17,06,630/-

10. The said sum of Rs. 17,06,630/- shall be payable together with interest at 7.5% from the date of petition till the date of realization.

11. The Civil Miscellaneous Appeal is allowed. The second respondent/Insurance Company is directed to deposit the enhanced compensation amount, less that already deposited, within a period of eight weeks from the date of receipt of this judgment. Major Appellants/Major claimants are at liberty to withdraw the amount on due application as per the ratio of apportionment made by Tribunal. The share of the minor claimants/minor appellants shall be deposited in any one of the Nationalized Banks till they attain Majority and interest accrued thereon shall be withdrawn by the guardian of the minor claimants, once in three months, from the Bank. Deficit Court fee, if any payable, by appellants/claimants in keeping with the quantum awarded by this Court shall be paid within two months of the receipt of this judgment.

s/d-सत्यमेव जयते

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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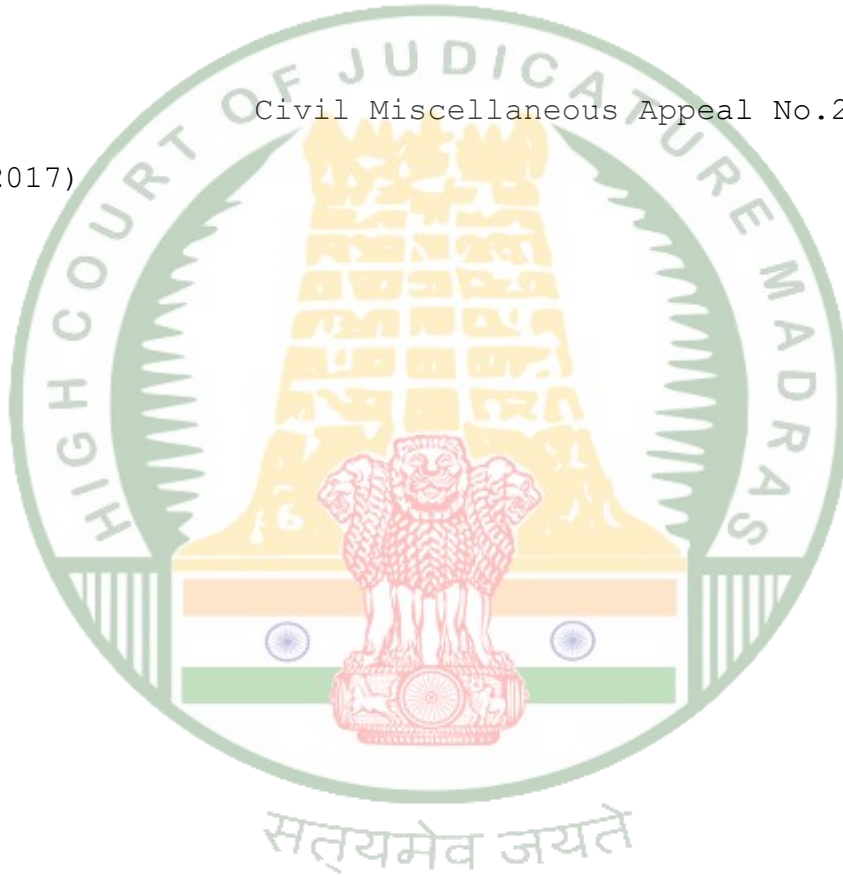
1. The Special Subordinate Judge-I,
Motor Accident Claims Tribunal,
Chennai.

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

+1 Cc to Mr.T.G. Ravichandran, advocate sr 75249.

Civil Miscellaneous Appeal No.2944 of 2014

SP(07/12/2017)



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