

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.02.2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Civil Miscellaneous Appeal No.806 of 2017
and
C.M.P.No.4163 of 2017

National Insurance Co. Ltd.
Branch Office, Door No.19/B
S.R.Complex, Rajamani Thottam
Bhavani Main Road, Sankari - 637 301 ... Appellant

Vs

1.Mangai
2.Minor Yuvashree
3.Minor Rishidharan
4.Minor Yashini
5.Gowramma
6.G.Premkumar ... Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 30.11.2015, passed in M.C.O.P.No.18 of 2015, by the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.P.Mani, for R1 to R5

J U D G M E N T

(Made by S.Manikumar,J)

Being aggrieved by the quantum of compensation of Rs.17,65,000/- with interest at the rate of 7.5% and costs, awarded in M.C.O.P.No.18 of 2015 dated 30.11.2015, by the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri, to the legal representatives of the deceased Markandan @ Ravi, National Insurance Company, has filed the instant appeal. Tribunal has quantified the said sum, as hereunder:

Loss of contribution to the family	: Rs. 14,40,000/-
Transport Expenses	: Rs. 20,000/-
Funeral Expenses	: Rs. 20,000/-
Loss of consortium	: Rs. 50,000/-
Damage to vehicle	: Rs. 10,000/-
Loss of love and affection: Rs. 2,25,000/- to respondents 1 to 4 @ Rs.50,000/ each and @ Rs.25,000/- to 5th respondent	
Total	: Rs. 17,65,000/-

2. Case of the claimants is that on 17.06.2014 at 7.00 a.m, while the deceased was riding his motorcycle on Dharmapuri - Krishnagiri National Highways, near Periyampatti deviation, a bus bearing Registration No.TN-52 A-6799 belonging to the 6th respondent and insured with the 2nd respondent, driven by its driver in a rash and negligent manner, dashed against the motorcyclist and he died on the way to hospital. He was a coolie and survived by his wife, three minor children and mother. Insurance company opposed the claim, denying negligence. Without prejudice to the same disputed the quantum of compensation claimed under various heads. After evaluation of oral and documentary evidence, the tribunal has quantified the compensation as stated supra.

3. Learned counsel for the appellant/insurance company contended that the Tribunal has deducted 1/5th towards the personal and living expenses of the deceased. According to him, it should be 1/4th. We find some force and substance in the contention of the learned counsel for the appellant/insurance company. As per the decision of the Hon'ble Apex Court in Sarla Verma v. Delhi Transport Corporation Ltd., reported in 2009 (2) TNMAC 1 (SC), if the dependents are less than six, deduction towards the personal and living expenses, should be 1/4th. Following the same, loss of contribution to the family is reworked as follows. The Tribunal has taken the monthly income of the deceased as Rs.10,000/-. If 1/4th is deducted towards the personal and living expenses of the deceased, the balance amount, namely Rs.7,500/- should be taken as monthly income of the deceased for the purpose of computing compensation. At the time of accident, the deceased was aged about 37 years. The Tribunal has correctly adopted multiplier 15. Thus loss of contribution to the family is computed as Rs.7,500 x 12 x 15 = Rs.13,50,000/-.

4. The Tribunal has awarded Rs.20,000/- towards transport expenses, which, in our considered view, is just and reasonable. Under the head loss of consortium, the Tribunal has awarded Rs.50,000/-, which is less. As per the decision of the Hon'ble Apex Court in Reshma Kumari's case, the same can be enhanced to Rs.1,00,000/-. In the instant case, the Tribunal has awarded Rs.20,000/- towards funeral expenses and the same can be increased to Rs.25,000/- by applying the decision of Rajesh's case. The respondents 2 to 4 being minor children of the deceased, besides love and affection, they have lost the guidance of their father and under the head loss of estate, the Tribunal has not awarded any amount. We deem it fit to award a sum of Rs.35,000/- under the said head. Under the head love and affection, the Tribunal has awarded Rs.50,000/- each to respondents 1 to 4 and Rs.25,000/- to the 5th respondent, which we deem it as reasonable. After the above modification, the compensation now determined by this court is as follows:

Loss of contribution to the family	: Rs. 13,50,000/-
Transport Expenses	: Rs. 20,000/-
Funeral Expenses	: Rs. 25,000/-
Loss of consortium	: Rs. 1,00,000/-
Damage to vehicle	: Rs. 10,000/-
Loss of estate	: Rs. 35,000/-
Loss of love and affection: to respondents 1 to 4 @ Rs.50,000/ each and @ Rs.25,000/- to 5th respondent	: Rs. 2,25,000/-
Total	: Rs. 17,65,000/-

5. In the light of the above discussion, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant/insurance company is directed to deposit the entire award amount, with proportionate accrued interest and costs, less the statutory deposit to the credit of M.C.O.P.No.18 of 2015, on the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this judgment. Share of the minors, namely respondents 2 to 4 herein, directed to be deposited in any one of the Nationalised Banks under reinvestment scheme, proximate to the residence of the respondents 2 to 4/claimants 2 to 4 and renewable thereafter.

Appellant No.1/mother of the minor children is permitted to withdraw interest once in three months, till the minor children attain majority. Tribunal is directed, to disburse the amount only on proper identification and proof.

Sd/-
Asst.Registrar (CS VIII)

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Sub Asst. Registrar

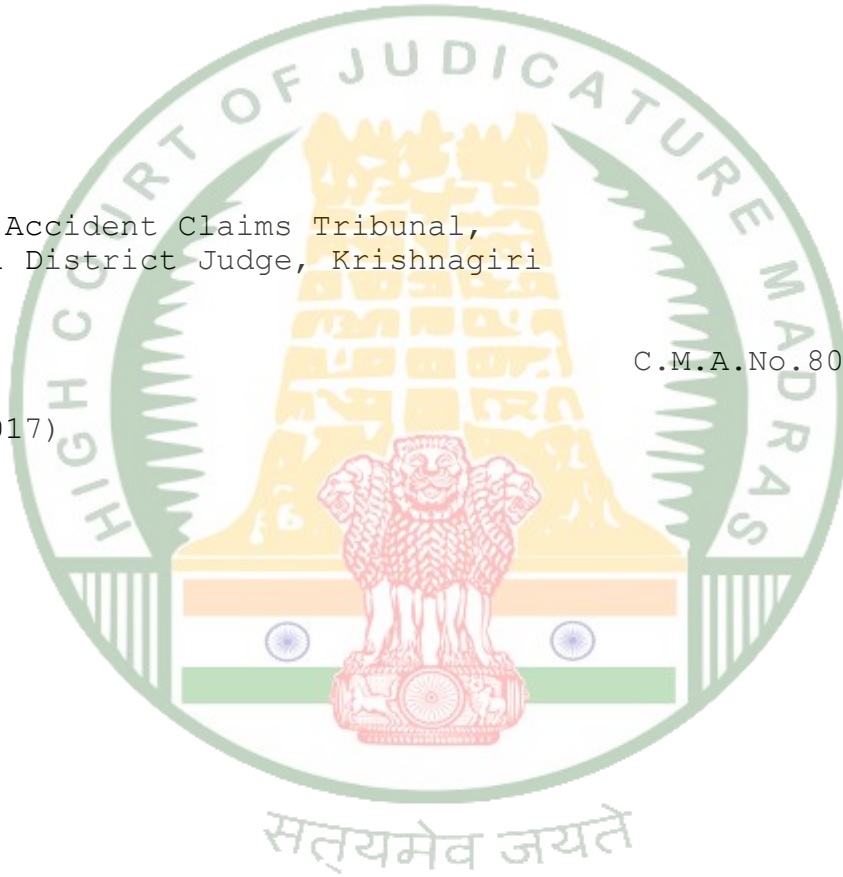
ASR

To

The Motor Accident Claims Tribunal,
Additional District Judge, Krishnagiri

C.M.A.No.806 of 2017

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