

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.3436 of 2009

1.S.Sundararaj
2.S.Thilagarani
3.Minor S.Aravindaraj
(Represented by his
guardian father S.Sundaraj) ... Appellant/Claimant-3

Vs.

1.Mohanraj
2.V.Archamy
3.N.Sundaram
4. The New India Assurance Company Ltd.,
435, D.B.Road, R.S.Puram,
Coimbatore-641 002. ... Respondents/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.29 of 2007, dated 18.10.2007 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Coimbatore.

For Appellant : Mr.N.E.A.Dinesh
For Respondents 1 to 3 : Served-No Appearance
For 4th Respondent : S.Manohar

JUDGMENT

The claimants have come forward with this appeal seeking enhancement of compensation awarded for the loss of the daughter of 1st and 2nd appellant and sister of 3rd appellant in a road accident.

2. On 24.10.2006, at about 2 p.m., one S.Kirthika, aged 16 years, and a student of Sri Sathiyasayee Vidhya Niketan Matric Higher Secondary School, Vadavalli, Coimbatore, was traveling in a bus belonging to the 3rd respondent and insured with the 4th respondent and died in an accident caused due to rash and negligent driving of the bus by the 2nd respondent. Seeking a compensation of Rs.10,00,000/-, the claimants, her parents, moved the Tribunal, as against which the Tribunal has passed an award of Rs.1,72,000/- payable with interest at 7.5% p.a.

Challenging the inadequacy of the award passed by the Tribunal, the claimants have come forward with the present appeal.

3. The Tribunal has reckoned the income of the victim of the accident at Rs.15,000/- per annum based on the II Schedule to Motor Vehicles Act and after deducting 1/3 towards her personal expenses, it applied a multiplier of 16 and arrived at net compensation of Rs.1,60,000/-. After awarding Rs.10,000/- as compensation towards loss of love and affection to her parents and another sum of Rs.2,000/- towards funeral expenses, it passed an award for Rs.1,72,000/- as indicated above.

4. It requires to be recorded with anguish that there cannot be any greater insensitivity that a Tribunal can demonstrate than what was in display in this case. Necessarily, this Court chooses to interfere with it. At this juncture, the learned counsel for the 4th respondent submitted that this Court might not be unduly charitable to the claimants.

5. Even if Rs.15,000/- is reckoned by the Tribunal is taken into account, as per Sarla Verma formula, after deducting 50% towards the personal expenses of the victim another 50% may have to be added towards future career prospects for the child. Therefore, this Court fixed a consolidated amount of Rs.20,000/- annually as the income of the victim after adjusting all the internal calculations regarding deduction to be made towards personal expenses and the addition to be made towards future career prospects. The appropriate multiplier is 18 and the compensation payable for loss of support that the child might have provided her family is determined is Rs.3,60,000/-. Towards loss of love and affection, each of her parents would be entitled to receive Rs.50,000/- as compensation, while her little brother, the third claimant, would be entitled to receive Rs.10,000/-. For funeral Rs.2,000/- is granted. Finally, the compensation amount is enhanced by this Court from Rs.1,72,000/- to Rs.4,72,000/-.

6. In the result, this appeal is allowed and the 4th respondent is directed to deposit a sum of Rs.4,72,000/- less the amount if any already deposited, with interest at 7.5% p.a. within a period of four weeks from the date of receipt of a copy of this order, whereupon the claimants would be entitled to withdraw the same forthwith. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Motor Accident Claims Tribunal
Chief Judicial Magistrate, Coimbatore.

Copy to:

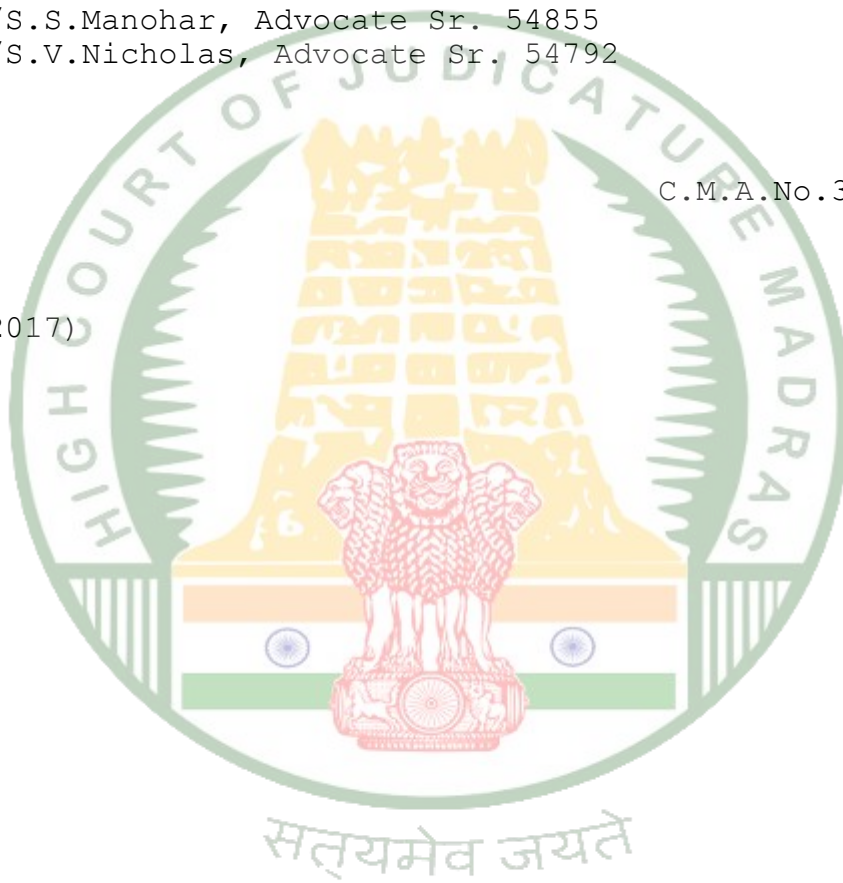
The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/S.S.Manohar, Advocate Sr. 54855

+1cc to M/S.V.Nicholas, Advocate Sr. 54792

C.M.A.No.3436 of 2009

MP (CO)
VR(28/10/2017)



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