

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 14.11.2018

DELIVERED ON 23.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.1865 of 2006

1. Rangamasamy Naicker
2. Appakkal Appellants/Claimants

Vs.

1. Abdul Kudus
2. The Managing Partner,
Messrs Tibetan Maiz Centre,
B.M.Road, Bylakupee,
Mysore District.
3. United India Insurance Company Limited,
Direct Agents Branch,
1259/60, Vinobha Road, Mysore 570 001.

(The claim against the first respondent is
given up in this CMA) Respondents/Respondents

This Civil Miscellaneous Appeal has been filed under
Section 173 of the Motor Vehicles Act, 1988, against the Award
passed in M.C.O.P.No.100 of 1999 dated 03.01.2001 by the
Principal District Judge, Motor Vehicle Accidents Claims
Tribunal, Erode.

For Appellants सत्यमेव जयते : Mr.N.Manokaran

Claim against 1st Respondent : Given up

For Respondents 2 & 3 : No appearance

J U D G M E N T

The appellants are the claimants in MCOP No.100/1999 on
the file of the Principal District Judge, Motor Vehicle
Accidents Claim Tribunal, Erode. They claimed compensation of
Rs.5,00,000/- for the death of their minor son Murugesan aged 13
years in a road accident that took place on 27.10.1997.

2. The deceased Murugesan (aged 13 years) was riding his bicycle on Mylampadi-Kathampalayam road on 27.10.1997. At about 5.30 p.m., while he was nearing Kattur, a speeding lorry bearing registration No. KA-09-2693 belonging to the 2nd respondent hit Murugesan, as a result of which, he sustained injuries and died on spot. Since the 2nd respondent insured the vehicle with the 3rd respondent, the claimants sought compensation from both of them.

3. The trial court awarded compensation of Rs.54,500/- together with interest at the rate of 12% p.a.

4. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimants are now before this court praying for enhancement of compensation.

5. Mr.N.Manoharan, learned counsel appearing for the appellants relied on the decision in R.K.Malik and another Vs. Kiranpal and others reported in (2009)14 SC Cases and contended that the deceased was studying in a school and his future prospects would have been good and bright and that the trial court has fixed the compensation only at Rs.54,500/-, which according to him is very meagre.

6. In the decision of the Supreme Court in Kishan Gopal and another Vs. Lale and others reported in 2013 AIR SCC 503 in , a compensation of Rs.5,00,000/- was awarded for the death of a boy aged 10 years. The boy in the above said decision died in a road accident that took place on 19.07.1992. The award amount was enhanced from Rs.1,57,000/- to Rs.5,00,000/- by the Honourable Supreme Court of India.

7. In the instant case, the age of the deceased was 13 years on the date of accident and applying the principles laid down in the Supreme Court decision, the award amount is enhanced to Rs.5,00,000/- towards loss of dependency and under the conventional heads. The award amount shall carry interest at the rate of 7.5% per annum.

In the result,

(i) The appeal is allowed. No costs.

(ii) The Insurance company is directed to deposit the enhanced compensation amount of Rs.5,00,000/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of 4 weeks from the date of receipt of a copy of this order, less the amount already deposited by them and on such deposit being made, the claimants are at liberty to withdraw the entire amount after following due procedure of law.

(iii) The appellants are directed to pay necessary court fee for the enhanced compensation amount.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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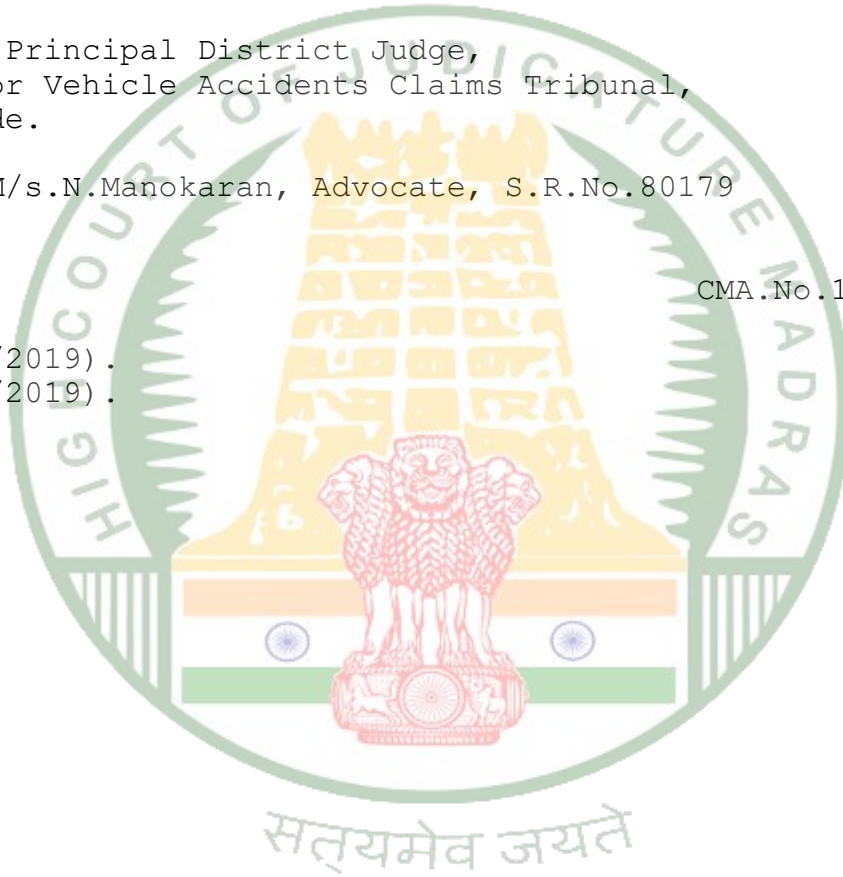
To

1. The Principal District Judge,
Motor Vehicle Accidents Claims Tribunal,
Erode.

+1 cc to M/s.N.Manokaran, Advocate, S.R.No.80179

CMA.No.1865 of 2006

KJ(CO)
SSM(24/06/2019).
SSM(05/07/2019).



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