

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1175 of 2011

1. S.Kalai Selvi
2. S.Sriram Kumar
3. S.Thiraviam

4. R.Ranjeetham (died)
(Fourth appellant died.
Memo dated 01.10.2018
(presented in Court) is recorded.
Appellants 1 to 3 are recorded as
Legal Heirs of the deceased
fourth appellant, vide
order dated 01.10.2018 made in
C.M.A.No.1175of2011)

... Appellants/Petitioners 1 to 3

Vs.

Metropolitan Transport Corporation
(Chennai Division) Ltd., Rep. by its
Managing Director,
Pallavan Salai,
Chennai-600 002.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 08/04/2010 made in M.C.O.P.No.4832 of 2007 on the file of the Chief Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For appellants : Mr.N.M.Muthurajan
For Respondent : Mr.V.Kasi Viswanathan

JUDGMENT

The appellants are the claimants in M.C.O.P.No.4832 of 2007 on the file of the Chief Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

2. Brief facts of the case of the appellants/claimants are as follows:

On 22.11.2007 at about 19 hours, deceased Sundararajan attempted to board a bus bearing Registration No.TN-01-N.2708 at Liberty Bus Stop. The said bus belonged to the respondent-Transport Corporation. The driver of the bus, without ensuring as to whether the deceased Sundararajan got into the bus, drove the bus rashly and negligently, as a result of which, the deceased Sundararajan was thrown out and sustained injuries all over his body. Immediately, he was rushed to hospital. However, he succumbed to injuries in the hospital. According to the appellants/claimants, the rash and negligent driving of the driver of the respondent-Corporation, was the cause of the accident and that they are liable to pay the compensation of Rs.12 lakhs to the appellants/claimants, since the deceased Sundararajan was aged about 48 years on the date of accident and was earning a sum of Rs.7,500/- per month as Sales Representative in M/s.Ramaswamy Mudaliar and Sons, Chennai.

3. The respondent-Transport Corporation filed counter before the Tribunal denying all the allegations of the appellants/claimants.

4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.6,10,000/- together with interest @ 7.5% per annum to the claimants. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants/claimants have filed the present appeal seeking for enhancement of compensation.

5. Learned counsel for the appellants contended that the Tribunal did not consider the future prospects of the deceased and the compensation amount awarded by the Tribunal is very meagre. He also contended that though the appellants/claimants filed Salary Certificate Ex.P-8, which would clearly show that the deceased Sundararajan was earning a sum of Rs.7,500/- per month as Sales Representative in M/s.Ramaswamy Mudaliar and Sons, the Tribunal has taken the monthly income of the deceased only as Rs.5,000/-.

6. It is pertinent to point out that the appellants/claimants did not examine the person who issued the Salary Certificate Ex.P-8, and therefore, the notional income of the deceased should have been fixed at Rs.4,500/- per annum. The Tribunal has not also awarded any amount towards future prospects. Applying the principles laid down by the Constitution Bench of the Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others, reported in 2017 (2) TN MAC 601, 25% should be added to the income of the deceased towards future prospects.

7. Similarly, since the deceased was aged about 48 years on the date of the accident, proper multiplier would be '13' as per the decision of the Supreme Court in the case of Smt. Sarla

Verma and others Vs. Delhi Transport Corporation and another, reported in 2009 (6) SCC 121. Since there are four persons depending on the income of the deceased, 1/4 is deducted towards the personal income of the deceased and thus, the loss of dependency is calculated as follows:

$$\begin{aligned}4,500 \times 25\% &= 1,125 \\ \text{Total income} &= \text{Rs.}5,625 \text{ (4,500 + 1,125)} \\ 5,625 \times 1/4 &= 1,406 \\ 5,625 - 1,406 &= 4,219 \\ 4219 \times 13 \times 12 &= \text{Rs.}6,58,164/-\end{aligned}$$

8. Apart from the above head, the appellants/claimants are entitled to a sum of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- towards loss of consortium, funeral expenses and loss of estate, respectively, as per the decision of the Supreme Court in the case of Pranay Sethi (cited supra). The award amount is detailed as under:

Name of the head under which the amount is awarded	Amount (in Rs.)
Loss of income	6,58,164
Loss of consortium	40,000
Loss of estate	15,000
Funeral expenses	15,000
Total	7,28,164

Thus, the appellants/claimants are entitled to a compensation of Rs.7,28,164/- (Rupees seven lakhs twenty eight thousand one hundred and sixty four only) together with interest @ 7.5% p.a. from the date of claim petition till the date of payment.

9. The enhanced award amount shall be deposited by the respondent-Transport Corporation within a period of four 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 by the respondent, the appellants/claimants are entitled to withdraw the entire amount after following necessary procedures laid down by this Court. The apportionment of the amount between the appellants/claimants shall be as per the order of the Tribunal. The appellants/claimants shall pay Court fee, if any, on the enhanced compensation.

10. With the above observations and directions, the appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Chief Judge,
Small Causes Court (Motor Accidents Claims Tribunal),
Chennai.

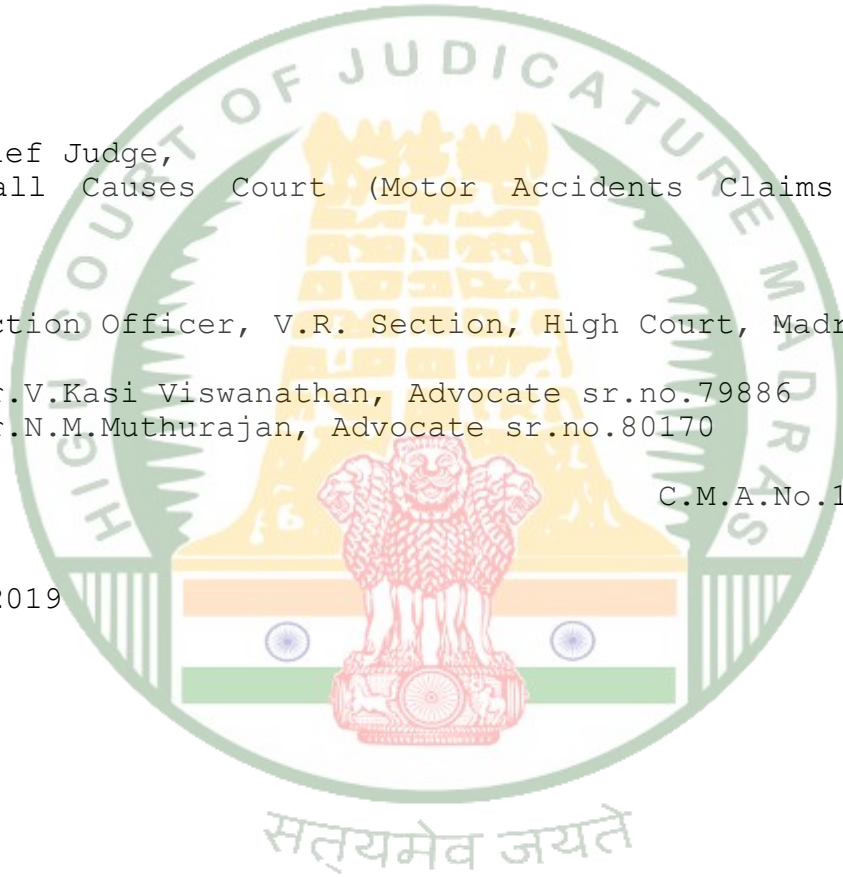
2. The Section Officer, V.R. Section, High Court, Madras.

+1cc to Mr.V.Kasi Viswanathan, Advocate sr.no.79886

+1cc to Mr.N.M.Muthurajan, Advocate sr.no.80170

C.M.A.No.1175 of 2011

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