

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3219 of 2011

1.J.Govindammal
2.C.Jaganathan

... Appellants/Petitioner

..Vs..

1.E.Moorthy
2.The United India Insurance Co. Ltd.,
No.64, Armenian Street,
Chennai - 01.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 29.10.2010 in M.C.O.P.No.1631 of 2007 on the file of Motor Accidents Claims Tribunal, (Chief Small Causes Court) Chennai.

For Appellants : Mr.K.Varadha kamaraj for
Mr.L.Mohan Rao

For Respondents : Mr.M.J.Vijayaraghavan for R2
R1 - exparte

JUDGMENT

The appellants are the claimants in M.C.O.P.No.1631 of 2007 on the file of the Chief Judge, Court of Small Causes, Chennai. They have filed the above claim petition seeking for a compensation of Rs.5,00,000/- for the death of the deceased Surendar who was aged 14 years on the date of the accident.

2.The brief facts of the case of the appellants/claimants is as follows:

On 23.06.2006, when the deceased Surendar was travelling as a pillion rider in the motorcycle bearing Registration No. TN 04 S 8829 on the T.H. Road opposite to Sasikala nagar, Chennai - 12, a speeding tanker lorry bearing Registration No. TN 25 W 0146 belonging to the first respondent hit the two wheeler, as a result of which, the deceased Surendar was thrown out of his vehicle and sustained multiple injuries. He was immediately

rushed to the hospital. However, he succumbed to injuries on the way to the hospital.

3. According to the appellants/claimants, the rash and negligent driving of the driver of the tanker lorry belonging to the first respondent was the cause of the accident and that since the said lorry was insured with the second respondent, both of them are jointly and severally liable to pay compensation to them. In the trial court the first respondent remained absent and was set ex-parte. The second respondent filed a counter denying all the allegations of the appellants/claimants.

4. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.1,70,000/- to the appellants/claimants together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants/claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr. K. Varadha kamaraj, learned counsel appearing for the appellants would contend that the compensation of Rs.1,70,000/- awarded by the Tribunal is very meagre, especially, when the appellants/claimants have lost their son aged 14 years in a road accident. He relied on the decision in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC) and contended that the Honourable Supreme Court had awarded a sum of Rs.5,00,000/- for a student aged 10 years who died in a road accident that took place on 19.07.1992.

6. Per contra, Mr. M. J. Vijayaraghavan, learned counsel appearing for the second respondent would contend that since in the present case, the accident took place only in the year 2006, awarding a sum of Rs.3,00,000/- is very reasonable.

7. In the decision in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC) (cited supra), the Honourable Supreme Court has awarded the compensation of Rs.5,00,000/- for the death of a boy aged 10 years. Therefore, by applying the said principles, I am of the view that awarding the compensation of Rs.5,00,000/- to the appellants/claimants would meet the ends of justice.

8. It is brought to the notice of this Court that the second respondent had already deposited Rs.1,70,000/- together with interest at the rate of 7.5% per annum. Therefore, the second respondent is directed to deposit the enhanced compensation amount (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of filing

the claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made by the second respondent, the appellants/claimants are at liberty to withdraw the entire amount by following the due process of law. The appellants/claimants are directed to pay the court fee for the enhanced compensation amount.

9. With the above observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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

Copy to:

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr. L. Mohan Rao, Advocate sr.no.81323

+1cc to Mr. M. J. Vijayaraghavan, Advocate sr.no.81502

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