

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2702 of 2015

1.T.Piramanayagam

2.P.Maharasi

3.P.Vijayalakshmi (Minor) ... Appellants/Petitioners

(Minor third appellant represented by her
father/next friend T.Piramanayagam)

Vs.

The Managing Director,
M.T.C. Limited, Pallavan House, Anna Salai,
Chennai - 600 002. ... Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under
Section 173 of Motor Vehicles Act, 1988, against the judgment
and decree dated 29.04.2015 made in M.C.O.P.No.2917 of 2010
on the file of Motor Accidents Claims Tribunal, Small Causes
Court, Chennai.

For Appellants : Mr.T.G.Ravichandran
For Respondent : Mr.S.S.Swaminathan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for
enhancement of compensation granted by the award dated
29.04.2015 made in M.C.O.P.No.2917 of 2010 on the file of
Motor Accidents Claims Tribunal, Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.2917 of
2010 on the file of Motor Accidents Claims Tribunal, Small
Causes Court, Chennai. They filed the above said claim
petition claiming a sum of Rs.40,00,000/- as compensation for
the death of one Sankara Vadivoo, who died in the accident
that took place on 25.11.2009.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.25,72,872/- as compensation to the appellants/claimants.

4.Not being satisfied with the award amount dated 29.04.2015 made in M.C.O.P.No.2917 of 2010, the appellants have come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the Tribunal without considering that the deceased would have got enhancement of salary and promotion, has awarded lesser amount towards loss of income. The amounts awarded by the Tribunal towards loss of consortium and loss of love and affection are meager and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the respondent/Transport Corporation filed C.M.A.No.1066 of 2016, challenging the quantum of compensation granted by the Tribunal. The Tribunal without any proof with regard to income of the deceased, awarded higher compensation towards loss of income. The amounts awarded by the Tribunal under different heads are excessive and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the respondent and perused all the materials available on record.

8.The learned counsel appearing for the appellants submitted that the appeal filed by the respondent/Transport Corporation was dismissed on 15.07.2016. From the materials on record, it is seen that the deceased was working as an Assistant in Tamil Nadu Khadi and Village Industries Board, Kuralagam, Chennai. The Assistant Director of Tamil Nadu Khadi and Village Industries Board was examined as P.W.3. The Tribunal considering Ex.P7/salary certificate fixed the monthly income of the deceased at Rs.22,768/-. The Tribunal did not add any amounts for future prospects on the ground that the said issue was pending before the Larger Bench of the Hon'ble Apex Court. Now the Hon'ble Apex Court in the judgment reported in the judgment in 2017(2)TNMAC 609 (SC) (National Insurance Company v. Pranay Sethi) has held that the legal heirs of the deceased are entitled to future prospects. The deceased was aged 47 years at the time of

accident. As per the judgment of the Hon'ble Apex Court referred to above, the appellants are entitled to 30% enhancement towards future prospects. In view of the same, the amount awarded by the Tribunal towards loss of income is modified as follows:

$$\text{Rs.}22,768/- + 6830.4 \text{ (30\% of Rs.}22,768/-) \times 12 \times 13 \times 2/3 = \text{Rs.}30,78,234/-$$

As per the judgment of the Hon'ble Apex Court referred to above, the appellants are entitled only a sum of Rs.70,000/- under conventional heads and hence, the amounts awarded by the Tribunal under different heads are hereby set aside. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	23,67,872	30,78,234	enhanced
2.	Loss of Consortium	25,000	-	set aside
3.	Loss of love and affection	1,50,000	-	set aside
4.	Funeral Expenses	30,000	-	set aside
5.	Conventional Heads	-	70,000/-	granted
	Total	25,72,872	31,48,234	Enhanced by Rs.5,75,362/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.25,72,872/- is enhanced to Rs.31,48,234/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellants/claimants shall pay necessary Court fee if any, on the enhanced compensation. The first appellant being the husband of the deceased is entitled to Rs.11,48,234/- and appellants 2 and 3 being the daughters of the deceased are entitled to Rs.10,00,000/- each as compensation. The respondent/Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1 and 2/claimants 1 and 2 are

permitted to withdraw their respective enhanced award amount along with interest and costs, less the amount if any, already withdrawn. The share of the minor/third appellant is directed to be deposited in any one of the nationalised banks till she attains majority. The first appellant being the father of the third appellant is entitled to withdraw the interest once in three months for the welfare of the minor. No costs.

Sd/-

Assistant Registrar(CS iii)

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Sub Assistant Registrar

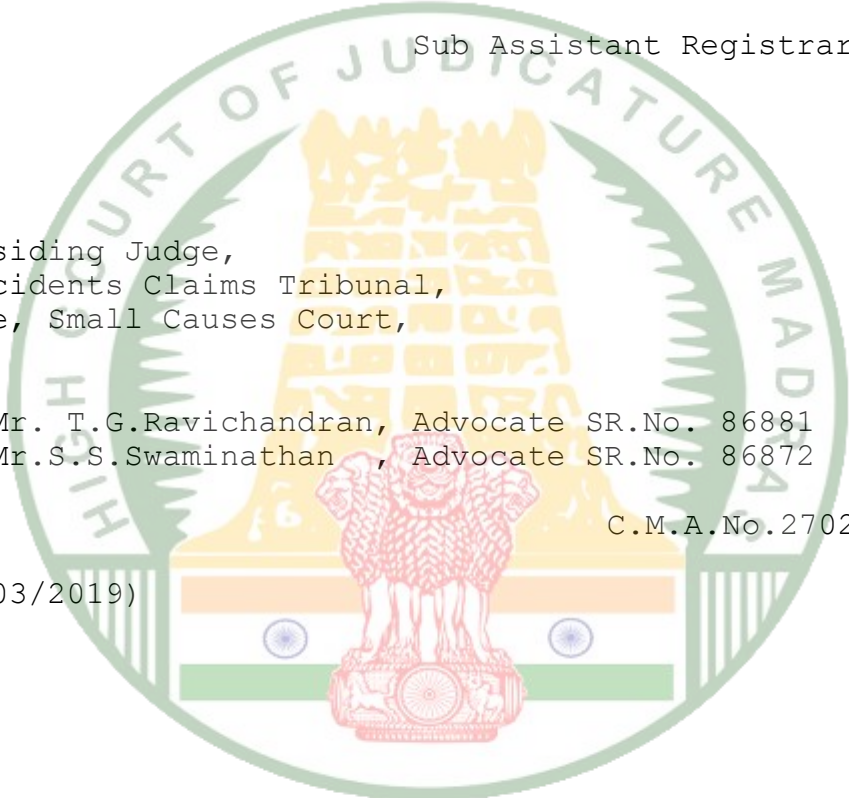
kj/krk
To

The Presiding Judge,
Motor Accidents Claims Tribunal,
The Judge, Small Causes Court,
Chennai.

+1cc to Mr. T.G.Ravichandran, Advocate SR.No. 86881
+1cc to Mr.S.S.Swaminathan , Advocate SR.No. 86872

C.M.A.No.2702 of 2015

A.SK(11/03/2019)



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