

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

C.M.A. No. 311 of 2018

1. S. Mohan
2. M. Malarvizhi ...Appellants/Petitioners
Vs.

1. A. Omul Zaheera
2. The United India Insurance Co. Ltd.,
Branch Office: No.127/A, 1st Floor,
Trunk Road, Poonamallee,
Chennai - 600 056. ...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 10.09.2015 passed in M.C.O.P. No. 360 of 2014 by the Motor Accidents Claims Tribunal (II Additional District Court), Poonamallee.

For Appellants :: Mr.R. Bharath Kumar

For Respondents :: Mr.S. Arunkumar for R2
R1 - Exparte

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been preferred by the appellants/claimants aggrieved over the quantum of compensation of Rs. 26,70,896/- awarded by the Motor Accidents Claims Tribunal in M.C.O.P. No. 360 of 2014 by order dated 10.09.2015 for the death of their son, by name, M. Ranjith Kumar, aged about 24 years, IT Support Facilitator, in an IT Company, allegedly earning about Rs.40,200/- per month, in the accident, which occurred on 17.03.2014, when the motor cycle driven by him, from South to North on Madambakkam Main Road was hit down by an Indigo Car driven rashly and negligently.

2. Heard Mr.R.Bharathkumar, learned counsel for the appellants and Mr.S. Arunkumar, learned counsel for the 2nd respondent. Though the 1st respondent has been served and her name is also printed in the cause list, there is no appearance on her behalf.

3. Since the claimants are before this Court questioning the quantum and there is no appeal by the Insurance Company questioning the negligence aspect, this Court considers only the issue of adequacy of compensation awarded by the Tribunal.

4. It was proved before the Tribunal that the deceased was an MBA Graduate and he was working in an IT Company. Though it was claimed that the deceased was drawing a sum of Rs.40,200/- per month as salary, the Tribunal, taking into consideration, various exhibits wherein various amounts have been shown, namely, Rs.22,917/-, Rs.25,815/- and Rs. 24,983/-, took Rs.25,000/-, being the average of the amounts, as monthly income of the deceased. The said amount is sought to be increased by the learned counsel for the appellants relying upon the salary slip for the month of November, 2017 wherein the salary is shown as Rs.40,200/-. However, Form 16 Income Tax Return filed by the deceased is exhibited as Ex-P12 and the same would reveal that the deceased was paid a sum of Rs. 3,19,449/- for the assessment year 2014-2015. Since the accident occurred in 2014, the said amount is taken as annual income. If Rs.3,19,449/- is taken as yearly income, the monthly income would be $\text{Rs.}3,19,449/12 = \text{Rs.}26620.75$.

5. The deceased was an MBA Graduate and was employed as an IT Support Facilitator and he was hardly aged about 24 years, as proved by Ex-P2 postmortem certificate, Ex-P7 Driving Licence and other relevant documents. Though he was employed in a Private Company, his permanent employment is assured because of his qualifications. Therefore, 50% has to be added towards "Future Prospects". Adding 50%, the "Total Monthly Income" would be,

Monthly Income	::	Rs.26620.75
ADD: 50% towards "Future Prospects "	::	Rs.26620.75 (+) 50% (Rs.26620.75)
Total Monthly Income	::	Rs.26620.75 (+) Rs.13,310/-
	::	Rs.39,930/-

Since the deceased was a bachelor, 50% has to be deducted towards "Personal Expenses". Therefore, applying the said deduction, "the Monthly Contribution of the deceased to his family" would be,

Total Monthly Income	::	Rs.39,930/-
LESS: 50% towards "Personal Expenses"	::	Rs.39,930/- (-) 50% (Rs.39,930/-)
	::	Rs.39,930/- (-) Rs.19,965/-
	::	Rs.19,965/-

The age of the deceased, as on the date of accident, was 24 years and the appropriate multiplier, for the said age group, is 18. Therefore, applying the said multiplier, "Loss of Income" is calculated as hereunder:

Loss of Income ::	Rs.19,965 x 12 x 18
::	43,12,440/-

The Tribunal has awarded a sum of Rs.15,000/- towards "Funeral Expenses" and the same is confirmed. As no amount was awarded towards "Loss of Estate", a sum of Rs. 15,000/- is awarded. The sum of Rs.5000/- awarded towards "Transportation Expenses" is very low and the same is enhanced to Rs.10,000/-. The amount awarded towards "Loss of love and affection" is very reasonable and the same is confirmed. So also, the amount of Rs.1000/- awarded towards "Damage to clothes" is confirmed. The total compensation payable to the appellants/claimants, is as follows:

Loss of Income	::	Rs.43,12,440/-
Funeral Expenses	::	Rs. 15,000/-
Loss of Estate	::	Rs. 15,000/-
Damage to Clothes	::	Rs. 1,000/-
Loss of love and affection	::	Rs. 50,000/-
Transportation Expenses	::	Rs. 10,000/-
Total	::	Rs.44,03,440/-
rounded off to	::	Rs.44,00,000/-

The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

6. The 2nd respondent Insurance Company is directed to deposit the entire award amount, with interest and costs, as per the modified award passed by this Court, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer 50% of the respective shares of the claimants to their respective bank accounts, through RTGS, with a period of one week thereon. The appellants shall pay additional court-fee if any. The balance award amount shall be deposited by the Tribunal in interest bearing Fixed Deposit in any one of the Nationalised Banks for 3 years and thereafter, the Tribunal shall allow the claimants to withdraw the same.

7. In the result, the Civil Miscellaneous Appeal is allowed enhancing the compensation awarded by the Tribunal from Rs. 26,70,896/- to Rs. 44,00,000/-.

Sd/-
Assistant Registrar(CS-)

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Sub Assistant Registrar

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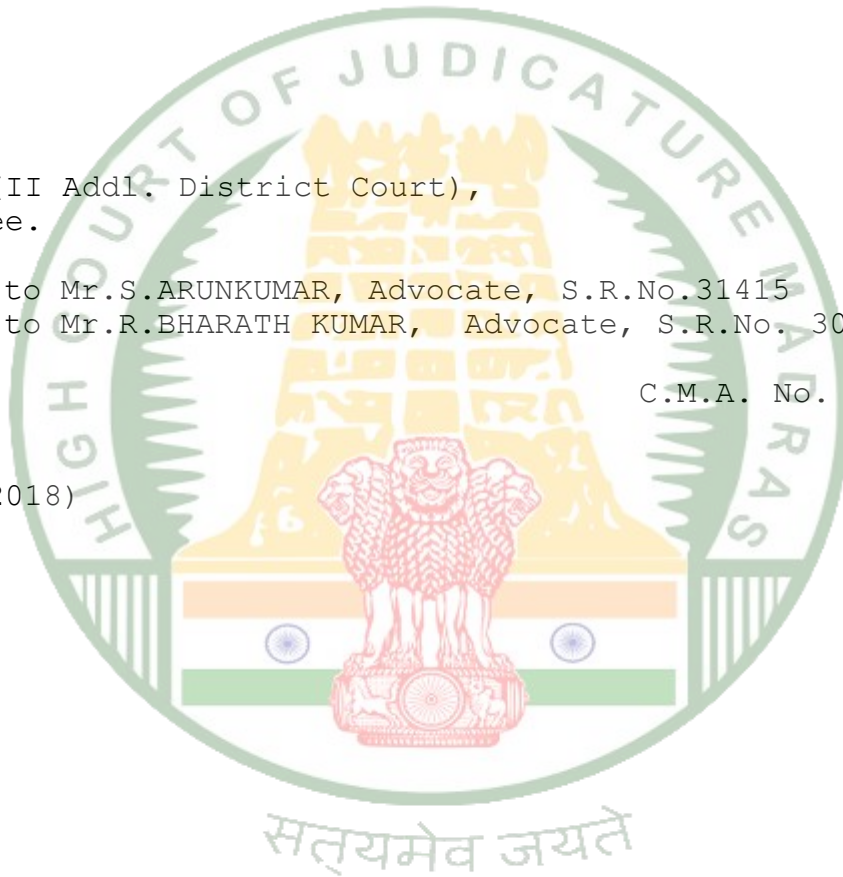
To

The MACT (II Addl. District Court),
Poonamallee.

+1cc to Mr.S.ARUNKUMAR, Advocate, S.R.No.31415
+1cc to Mr.R.BHARATH KUMAR, Advocate, S.R.No. 30998

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CA(CO)
TR(10/07/2018)



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