

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 3131 of 2017

Chinnaponnu

..Appellant/Petitioner

Vs.

1. R. Meganathan
2. United India Insurance Company
Limited,
D.No.77, Oriental Complex,
A.A. Street, Salem - 636 001
Branch Office at
No.2, Dr. Sankaran Salai,
Namakkal District.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed U/s. 173 of Motor Vehicles Act as against the judgment and decree dated 19.07.2017 in M.C.O.P. No. 1010 of 2015 passed by the Motor Accidents Claims Tribunal (Principal District Judge), Namakkal.

For Appellant :: Mr.R. Nalliyappan

For Respondents:: Mr.S. Arunkumar for R2

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 claimant aggrieved by the quantum of compensation of Rs.6,69,800/- awarded by the Motor Accidents Claims Tribunal (Principal District Judge), Namakkal, in M.C.O.P. No.1010 of 2015, for the death of one Vignesh, aged about 22 years, who was working as a Packing Labour in Paragon Company Limited, alleged to be earning about Rs.15,000/- per month, in the accident, which occurred on 16.04.2015, when the two-wheeler driven by him, along with one Arul as pillion rider, was dashed down by a Qualis car, belonging to the 1st respondent and insured with the 2nd respondent, driven rashly and negligently, by its driver.

2. The claim petition filed by the appellant was contested and the Tribunal found that the accident occurred because of the rash and negligent driving by the driver of the car belonging to the 1st respondent and insured with the 2nd respondent.

3. Heard Mr.R. Nalliyappan, learned counsel for the appellant and Mr.S. Arunkumar, learned counsel for the 2nd respondent.

4. The only issue in question is with regard to the quantum of compensation.

5. According to the learned counsel for the appellant, though the Tribunal determined the monthly income of the deceased at Rs.6100/-, based on Ex-P16, salary certificate and the evidence of P.W.3, employer, "future prospects" was not taken into consideration, when the deceased was hardly aged about 22 years.

6. Considering the fact that the deceased was earning Rs.6100/- per month and he was aged about 22 years, following the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, this Court adds 40% of the actual salary towards "Future Prospects". Therefore, the "total monthly income" of the deceased comes to,

Monthly Income	::	Rs.6100/-
ADD:40% towards "Future Prospects"	::	Rs.6100/- + 40% (Rs.6100/-)
	::	Rs.6100 + Rs.2440/-
	::	Rs.8540/-

7. As far as deduction towards "Personal Expenses of the deceased" is concerned, though the Tribunal has deducted 50% as the deceased was a bachelor, the claimant, being aged mother, without any support from any quarters, to maintain herself, following the judgment of the Honourable Apex Court in Smt. Sarla Verma and Others V. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, instead of 50% deduction, one-third deduction could be made. Applying the same, "the Monthly Contribution of the deceased to his family" works out to,

Total Monthly Income	::	Rs.8540/-
LESS:1/3 rd deduction towards "Personal Expenses"	::	Rs.8540/- (-) 1/3(Rs.8540/-)
Monthly Contribution	::	Rs. 5693/-
Annual Contribution	::	Rs.5693 x 12
	::	Rs.68,316/-

8. The deceased was aged about 22 years as proved by Ex-P3, postmortem certificate and Ex-P6, Driving Licence and the relevant multiplier to be adopted, as rightly done by the Tribunal, is 18. Applying the said multiplier, "Loss of Income" comes to,

Loss of Income :: Rs.68,316 x 18
:: Rs.12,29,688/-

9. The Tribunal has awarded a sum of Rs.3000/- towards "Loss of Estate" and Rs. 5000/- towards "Funeral Expenses" and the said amounts are enhanced to Rs.15,000/- under each head. The sum of Rs.2000/- awarded towards "Loss of Love and Affection" and Rs.1000/- awarded towards "Transportation Charges" are enhanced to Rs.50,000/- and Rs.10,000/- respectively. Summing up the amounts awarded under different heads, the total compensation payable comes to,

Loss of Income :: Rs.12,29,688/-
Loss of Estate :: Rs. 15,000/-
Funeral Expenses :: Rs. 15,000/-
Loss of Love and Affection:: Rs. 50,000/-
Transportation Charges :: Rs. 10,000/-
Total :: Rs.13,19,688/-
rounded off to :: Rs.13,20,000/-

The rate of interest awarded @ 7.5% per annum is confirmed. The appellant shall pay additional court-fee for the enhanced amount, if any.

10. The 2nd respondent Insurance Company is directed to deposit the entire award amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, after deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the appellant through RTGS within a period of one week thereon.

11. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.6,69,800/- is enhanced to Rs.13,20,000/- with interest @ 7.5% per annum. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

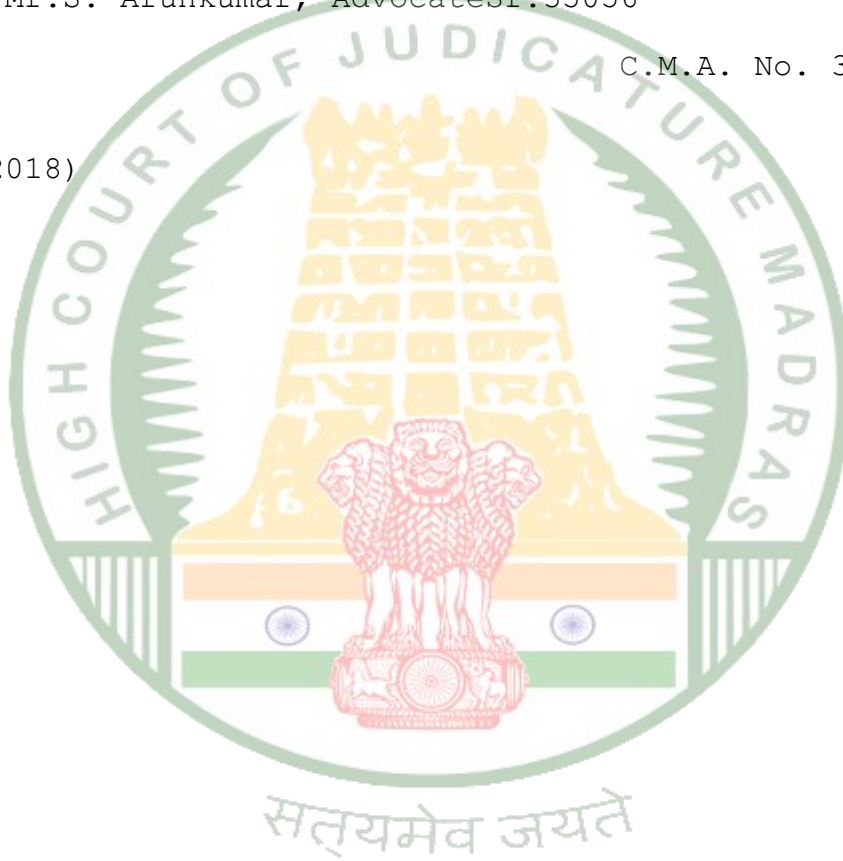
2. the Section Officer, VR Section, High Court, Madras.

+ 1 cc to Mr.R. Nalliyappan, Advocate Sr.34909

+ 1 cc to Mr.S. Arunkumar, AdvocateSr.35056

C.M.A. No. 3131 of 2017

EV(CO)
EU(27/06/2018)



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