

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.872 of 2018

1.M.Gunasundari
2.M.G.Vishva (Minor)
3.M.G.Vishalini (Minor)
4.T.Kasiammal
(2 and 3 appellants are being minor hence they
are Rep. by their Mother/Natural Guardian/1st Appellant)
.. Appellants/Claimants

Vs

1.K.T.Sivakumar (Exparte)
2.The Branch Manager
United India Insurance Company Ltd.
No.134, Greams Road, Chennai -6. ..Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree dated
25.06.2012 made in M.C.O.P.No.2264 of 2011 on the file of IV
(Court of Small Causes) Motor Accident Claims Tribunal, Chennai.

For Appellants : Mr.T.G.Ravichandran

For Respondents: Mr.D.Bhaskaran for R2
R1-Exparte

JUDGMENT

[Judgment of the Court was made by N.KIRUBAKARAN, J]

The appeal has been preferred by the claimants aggrieved
with the quantum of compensation of Rs.31,17,800/- awarded for
the death of one T.Muruganandham, aged about 38 years, Sub-
Inspector of Police, earning a sum of Rs.23,889/- per month, in
the accident occurred on 30.03.2011, when he was riding his
motorcycle and hit behind by a Lorry, belonging to the first
respondent, insured with the second respondent, which was driven

by its driver rashly and negligently.

2. Heard Mr.T.G.Ravichandran, learned counsel for the appellants and Mr.D.Bhaskaran, learned counsel for the second respondent.

3. The only question to be decided is with regard to the quantum of compensation. It was proved before the Tribunal through Ex.P.16-Salary Certificate and Ex.P.17-Copy of Service Register that the deceased was a Sub-Inspector of Police. As per Ex.P.16-Salary Certificate, the monthly income of the deceased was Rs.23,889/-. Therefore, the Tribunal rightly took a sum of Rs.23,889/- as monthly income. However, the Tribunal did not add any amount towards future prospectus. Since the deceased was a Sub-Inspector of Police and aged about 38 years, as per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), 50% has to be added towards future prospectus. If 50% is added towards future prospectus, the monthly income would be at Rs.35,833/- [Rs.23,889 + 50% of Rs.23,889/-]. Therefore, the annual income would be at Rs.4,29,996/- [Rs.35,833/- X 12]. A sum of Rs.24,996/- has to be deducted towards Income Tax. After deduction of Rs.24,996/- towards Income Tax, the annual income would be at Rs.4,05,000/-.

4. Since the size of the family is four, 1/4th has to be deducted towards personal expenses. After deduction of 1/4th, the loss of income would be at Rs.3,03,750/- [Rs.4,05,000/- (-) 1/4th].

5. The Tribunal wrongly adopted the multiplier as '16', whereas, the correct multiplier, as per the age of victim viz., 39 years and also as per the judgment of the Honourable Supreme Court in Sarla Verma & Others .Vs. Delhi Transport Corporation & another, reported in 2009 (2) TNMAC 1 (SC), is only '15' and therefore, the loss of income would be at Rs.45,56,250/- [Rs.3,03,750 X 15].

6. The Tribunal has awarded a sum of Rs.10,000/- towards loss of consortium to the 1st appellant and the same has to be enhanced to Rs.40,000/- as per the Constitution Bench's judgment of the Honourable Supreme Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC). Accordingly, loss of consortium is enhanced to Rs.40,000/-.

7. The Tribunal has awarded a sum of Rs.40,000/- towards loss of love and affection. Since the second and third appellants are minor children, a sum of Rs.50,000/- each is

awarded towards loss of love and affection and similarly, a sum of Rs.25,000/- is awarded to the 4th appellant towards loss of love and affection. Totally, a sum of Rs.1,25,000/- is awarded towards loss of love and affection to appellants 2 to 4.

8. The Tribunal has not awarded any amount towards loss of estate and therefore, a sum of Rs.15,000/- is awarded towards loss of estate.

9. Further, the Tribunal has awarded a sum of Rs.10,000/- towards funeral expenses. As per the Constitution Bench's judgment in Pranay Sethi's case, the same is enhanced to Rs.15,000/-.

10. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed. The details of the modified compensation as per the above discussion are as under:

Head	Amount (Rs.)
Loss of income	45,56,250
Loss of consortium	40,000
Love and affection	1,25,000
Loss of Estate	15,000
Funeral Expenses	15,000
Total	47,51,250

11. Hence, the total compensation comes to Rs.47,51,250/- rounded off to Rs.47,50,000/-. Out of the award amount, the first appellant/wife of the deceased is entitled to get Rs.20,00,000/-, appellants 2 and 3/children of the deceased are entitled to get Rs.12,50,000/- each and 4th appellant/mother of the deceased is entitled to get Rs.2,50,000/-. The claimants are directed to pay the additional court fee, if any, within a period of two weeks from the date of receipt of a copy of this order, failing which, the enhancement made by this Court shall be automatically deleted.

12. The second respondent/Insurance Company is directed to deposit the entire amount along with interest and costs within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal is directed to transfer the respective shares of the appellants 1 and 4/claimants 1 and 4 along with proportionate interest and costs to their bank accounts through RTGS within a period of one week thereon. As far as minor appellants 2 and 3/ claimants 2 and 3 are concerned, their shares shall be deposited in an interest

bearing Fixed Deposit in any one of the Nationalised Banks, till they attain majority. The first appellant/mother is permitted to withdraw interest accruing on such deposit once in three months.

13. Accordingly, this Civil Miscellaneous Appeal is allowed by enhancing the Compensation amount of Rs.31,17,800/- to Rs.47,50,000/-. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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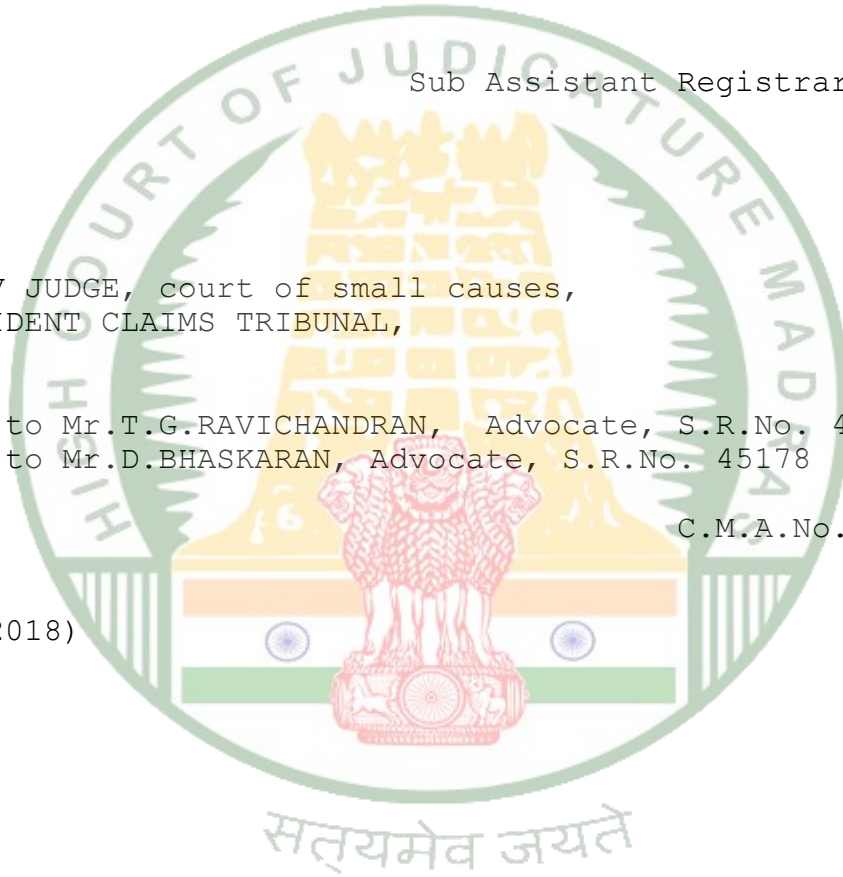
TO

1 THE IV JUDGE, court of small causes,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
CHENNAI.

+1cc to Mr.T.G.RAVICHANDRAN, Advocate, S.R.No. 45545
+1cc to Mr.D.BHASKARAN, Advocate, S.R.No. 45178

C.M.A.No.872 of 2018

AK(CO)
TR(23/08/2018)



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