

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.2250 of 2018

1.Jayalakshmi
2.Dhanalakshmi
3.Rajeshwari
4.J.Nagalakshmi
5.J.Venkatalakshmi
6.J.Ashok (Minor)
7.J.Kasthuri (Minor) ... Appellants/Petitioner
(6th & 7th Petitioners being minor are
represented by their mother and
natural guardian/1st petitioner)

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Anna Salai, Chennai-2. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 17.01.2013 passed in MCOP.No.1227 of 2011 by the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Madras.

For Appellants : Mr.T.G.Ravichandran

For Respondent : Mr.K.S.Suresh

ORDER

This Civil Miscellaneous Appeal has been preferred by the claimants/Appellants against the judgment and decretal order made in MCOP.No.1227 of 2011 dated 17.01.2013 by the Chief Motor Accident Claims Tribunal (I Court of Small Causes), Chennai.

2.I heard Mr.T.G.Ravichandran, learned counsel for the appellants and Mr.K.S.Suresh, learned counsel for the respondent and perused the entire materials available on record.

3.The appellants herein, the claimants filed a claim petition in MCOP.No.1227 of 2011 on the file of the learned

Chief Motor Accident Claims Tribunal (I Court of Small Causes) Chennai, claiming compensation of Rs.18,30,000/- for the death of R.Bangaru Naidu in a Road Traffic accident which took place on 30.11.2010 at about 21.40 hrs., while he was riding the bicycle from East to West direction in the left side of Veppery High Road in front of Peinnas Memorial Papsist School at that time the MTC bus bearing Registration No.TN-01-N-5928 came from same direction in a rash and negligent manner and hit the victim and the victim/deceased sustained grievous injuries and he died on the same day i.e. 30.11.2010 in the Government Hospital, Chennai-3.

4.The respondent/Transport Corporation herein is the owner of the MTC bus bearing registration No.TN-01-N-5928 and contested the claim by filing counter statement separately. The claimant No.1 is wife of deceased, the claimant Nos.2 to 7 are sons and daughters of the deceased.

5.In order to prove the claim, PW1 to PW3 were examined and Exs.P1 to P9 were marked on the side of the claimants. DW1 was examined and no document was marked by the respondent.

6.The Tribunal after considering the evidence on record and also hearing both sides, held the deceased died only due to rash and negligent driving of the respondent vehicle and awarded a sum of Rs.6,71,000/- as compensation with interest at the rate of 7.5% per annum and cost and directed the respondent to pay and deposit the above amount of compensation.

7.Aggrieved by the quantum of compensation awarded by the Tribunal, the claimants preferred this appeal before this Court. The Tribunal took the monthly income of the deceased as Rs.6,000/- and the relevant multiplier of 11 years of the deceased and after deduction 1/4th of the income for personal and living expenses of the deceased, determined the loss of income due to the death of the deceased as Rs.5,94,000/-. The Tribunal has awarded a sum of Rs.80,000/- in other heads. Totally a sum of Rs.6,74,000/- was awarded.

8.The learned counsel appearing for the appellants/claimants contends that the Tribunal awarded very meager amount as compensation. The proved monthly income and future prospects and other aspects were not considered properly by the Tribunal. Hence, the appellants seek enhancement of the award amount by entertaining the appeal.

9.Per contra, the learned counsel for the respondent contended that the deceased was not employed and he was not earning income as claimed by the appellants. The Tribunal without appreciating the evidence properly wrongly awarded huge

amount as compensation and the same is unsustainable. Thus the respondent seeks dismissal of this appeal.

10. The deceased is stated to be employed as Supervisor in M/s. Kalimuthu Forwarding and Clearing Agent, Central Station, Chennai-3 and earning a sum of Rs.12,000/- per month and the employer of the deceased has also examined as PW3 and marked the Salary Certificate as Ex.P9. No contra evidence against the employment of deceased. As such taking into consideration the prevailing market condition, any person employed as a Coolie or Supervisor can easily earned Rs.500/- per day. Hence, the monthly income of the deceased reduced by the Tribunal is not proper and the same is fixed at Rs.12,000/- per month as per Ex.P9. The age of the deceased being 52 years, thus he entitled to get 10% of the income is to be taken as future prospects. Following the SARALA VERMA case the multiplier is 11. As such the loss of the dependency is calculated is as follows:

- (1) Rs.12,000/-, + 10% of the amount of Rs.1200/- towards future prospects = Rs.13,200/-
- (2) Rs.13,200/- deducted 1/4th amount of Rs.3,300/- towards personal expenses of the deceased and the balance amount would be Rs.9,900/- as loss of income.
- (3) Rs.9,900/- X 12 = Rs.1,18,800/- X 11 = Rs.13,06,800/- as total loss of income.

11. Following the Hon'ble Apex Court decision reported in 2017 (2) TNMAG (SC) National Insurance Co. Ltd. v. Pranay Sethi and others, towards loss of estate, loss of consortium and funeral expenses, this Court is inclined to modify the compensation as under:-

Loss of Consortium	=	Rs.40,000/-
Loss of love & affection	=	Rs.15,000/-
Funeral expenses	=	Rs.15,000/-
Transportation	=	Rs. 5,000/-

12. Hence, the award of Rs.6,74,000/- granted by the Tribunal is enhanced to Rs.13,81,800/-. The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. In view of the above modified award amount, the respondent is directed to deposit the award amount, less the amount if any already deposited along with accrued interest within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimants are permitted to withdraw the amount awarded as above by filing proper application before the Tribunal. The Tribunal shall pass appropriate directions for the disbursed of the amount as stated supra on the filing of such application to the person savings bank account of the appellant through RTGS/NEFT system. In other aspects the award of the Tribunal is confirmed.

The appellants are directed to pay the deficit court fee within a period of four weeks from the date of receipt of the copy of this judgment.

13.In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

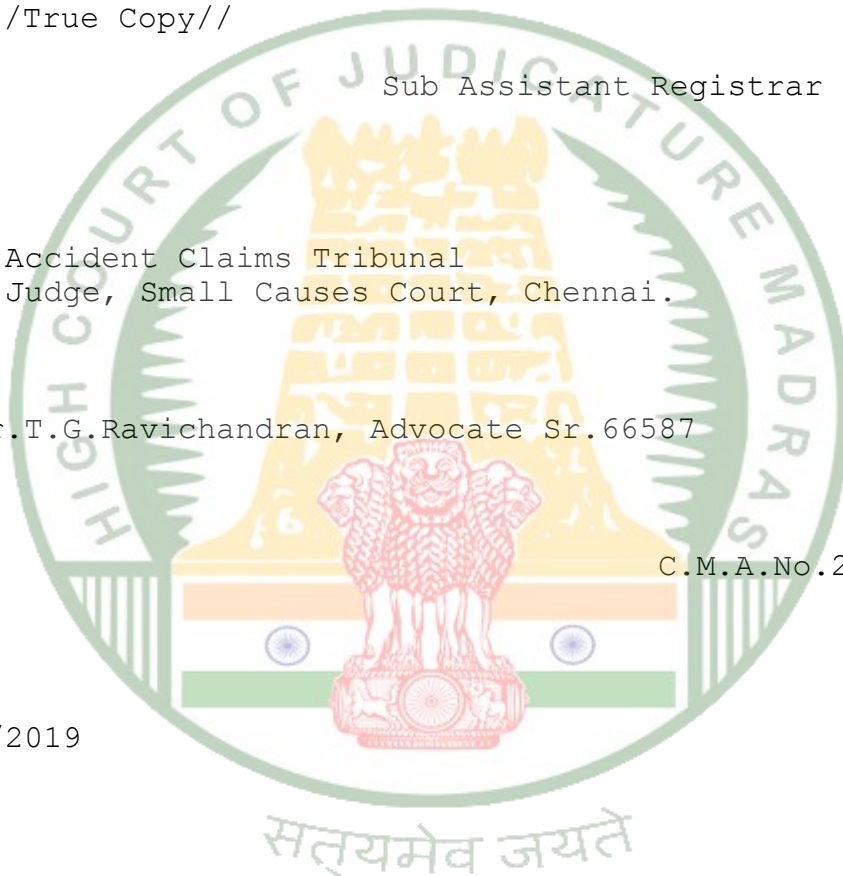
To

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

+1cc to Mr.T.G.Ravichandran, Advocate Sr.66587

C.M.A.No.2250 of 2018

cnr[co]
srg 22/03/2019



WEB COPY