

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1598 of 2006

Saroja ... Appellant

Vs

1.T.Dhanapal

2.National Insurance Co.Ltd.

Vellore Branch,

55, Gandhi Road, Vellore-1. Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.03.2005 made in MCOP No.217 of 2002 on the file of the Motor Accidents Claims Tribunal (Additional District and Sessions Judge, Fast Track Court II, Ranipet) at Ranipet.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondents : Mr.N.Vijayaraghavan for R2

JUDGMENT

This appeal is preferred by the appellant/claimant against the award of a sum of Rs.1,10,000/- towards compensation due to the death of her son in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 20.12.1994 at about 00.45 hours, the deceased G.Arumugham was riding his bicycle on the Arakkonam - Nemili High Road towards Nagavedu Village, Theeder Nagar in Parthiputhur Village. At that time, the tempo van bearing Reg.No.TCJ-6478 came from the opposite direction in a rash and negligent manner on the wrong side of the road and hit against the bicycle which the deceased was riding. Due to the said impact, the deceased sustained fatal injuries and died. The mother of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.3,00,000/- as compensation. On consideration of the materials and evidence available on record,

the Tribunal awarded a total compensation of Rs.1,10,000/- with interest at the rate of 6% per annum from the date of petition.

3.Challenging the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4.The learned counsel for the appellant /claimant has submitted that the Tribunal has erred in arriving at the monthly contribution of the deceased to the family, at Rs.800/-, which is contrary to the facts, pleadings, evidence and the probabilities in the case. He also submitted that the amounts awarded by the Tribunal towards other heads are very low. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has correctly considered the materials and evidence and has correctly awarded the compensation which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant / claimant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

7.The Tribunal has awarded a sum of Rs.96,000/- towards loss of income. The said sum has been arrived at by fixing the monthly contribution of the deceased to the family at Rs.800/- and adopting the multiplier of 10. The case of the claimant is that the deceased was working as a Power Loom Weaver and was earning a sum of Rs.3,000/- per month. Further, there is every possibility of earning more income by the deceased in the near future and he could have easily earned an income of Rs.5,000/- per month. Considering the facts and circumstances of the case, it would be appropriate to fix the monthly income of the deceased at Rs.1,500/- and it would be appropriate to fix 40% of the said amount (Rs.600/-) towards future prospects. If the said sum of Rs.600/- is added to Rs.1,500/- it works out to Rs.2,100/-. Deducting 50% of the amount towards personal expenses and adopting the correct multiplier of 18, the loss of income works out to Rs.2,26,800/-. Hence the amount awarded by the Tribunal towards loss of expectation stands modified to Rs.2,26,800/-. The Tribunal has awarded a sum of Rs.10,000/- towards loss of love and affection and Rs.4,000/- towards funeral expenses. It would be appropriate to award a sum of Rs.15,000/- towards each of these heads and accordingly the

amounts awarded by the Tribunal towards loss of love and affection and funeral expenses stands modified to Rs.15,000/- and Rs.15,000/- respectively. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Loss of expectation	2,26,800/-
Loss of love and affection	15,000/-
Funeral expenses	15,000/-

TOTAL...	2,56,800/- =====

8.Thus, the claimant is entitled to the modified compensation of Rs.2,56,800/-. It is made clear that only for the compensation of Rs.1,10,000/- awarded by the Tribunal, the interest rate of 6% per annum shall be calculated from the date of claim petition. For the additional amount now granted by this Court, ie., Rs.1,46,800/-, the interest rate of 6% shall be calculated from the date of filing of this appeal.

10.The second respondent Insurance Company is directed to deposit the modified amount of compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

11.The Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1.Motor Accidents Claims Tribunal
(Additional District and Sessions Judge,
Fast Track Court II, Ranipet) at Ranipet.

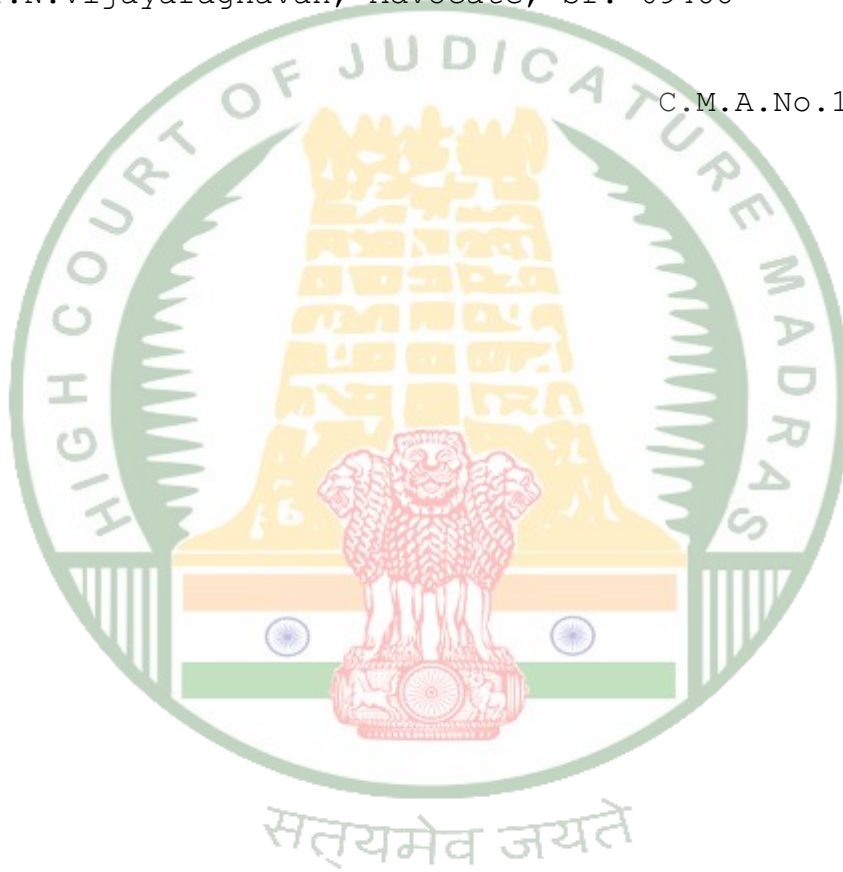
2.The Section Officer,
VR Section, Madras High Court.

1 cc to Mr.a.N.Viswanatha Rao, Advocate Sr. 68916

1 cc to Mr.N.Vijayaraghavan, Advocate, Sr. 69488

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