

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2322 of 2007

1.Selvaraj

2.Kumutha

... Appellants/Petitioners

..Vs..

1.Vumidi Mukundha Silver Wares,
630, Anna Salai, Thousand Lights,
Madras - 600 006.

2.The New India Assurance Company Limited,
Divisional Office, Nehru Street,
Pondicherry.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgement dated 18.03.1996 passed in M.C.O.P.No.431 of 1992 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Cuddalore.

For Appellants : Mr.N.Ishtiaq Ahmed

For R1 : No appearance

For R2 : Mr.M.Krishnamoorthy

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.431 of 1992 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Cuddalore. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.1,00,000/- for the death of their son Krishnamoorthy, aged eight years, in a road accident on 27.01.1991.

2. The case of the claimants is that on 27.01.1991, at about 04.30 P.M., while the deceased Krishnamoorthy was walking along Panruti - Ulundurpet main road near Semakottai Village, a speeding Maruthi car bearing Registration No. TCW 2021, hit him,

as a result of which, he sustained injuries and died in the hospital on 31.01.1991. According to the claimants, the accident took place due to rash and negligent driving of the driver of the car belonging to the first respondent and that since the said car was insured with the second respondent / New India Assurance Company Limited, the owner of the car and its insurer are jointly and severally liable to pay compensation.

3. The learned Chief Judicial Magistrate / Motor Accidents Claims Tribunal, Cuddalore, after analysing the evidence on record, awarded a compensation of Rs.30,000/- together with interest at the rate of 12% per annum to the claimants. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.N.Ishtiaq Ahmed, learned counsel appearing for the appellants / claimants contended that the compensation of Rs.30,000/- awarded by the Tribunal is very meagre, especially, when the deceased was a boy aged eight years. He relied on the decision in Kishan Gopal and another Vs. Lala and others reported in 2013 (5) CTC 212 (SC) and contended that the Hon'ble Supreme Court of India had awarded a sum of Rs.5,00,000/- for a student aged 10 years who died in a road accident that took place on 19.07.1992.

5. Per contra, Mr.M.Krishnamoorthy, learned counsel appearing for the second respondent / New India Assurance Company Limited contended that since the accident took place only in the year 1991, awarding compensation of Rs.30,000/- to the claimants for the death of their eight year old child is very reasonable.

6. No appearance on behalf of the first respondent.

7. In the decision in Kishan Gopal and another Vs. Lala and others (cited supra), the Hon'ble Supreme Court of India has awarded compensation of Rs.5,00,000/- for the death of a boy aged 10 years. By applying the said principles, I am of the view that awarding compensation of Rs.5,00,000/- to the appellants / claimants would meet the ends of justice.

8. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.30,000/- to Rs.5,00,000/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The second respondent / New India Assurance Company Limited is directed to deposit the entire compensation amount i.e., Rs.5,00,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of . C.O.P.No.431 of 1992 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Cuddalore within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the ratio of apportionment made by the Tribunal after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Cuddalore.

Copy to

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

+1cc to Mr.N.Ishtiaq Ahmed, Advocate Sr.94810
+1cc to Mr.M.Krishnamoorthy, Advocate Sr.94024

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srg 31/07/2020