

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1074 of 2009

1.T.Murali

2.M.Deepthi

... Appellants

Vs

1.J.Emi Grace

(R1 was set exparte in the Trial Court)

2.National Insurance Co. Ltd.,

No.751, Anna Salai,

Chennai - 600 002.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.11.2008 made in M.A.C.T.O.P.No.4128 of 2005 on the file of the Chief Judge, Motor Accidents Claims Tribunal, Chennai, Court of Small Causes, Chennai.

For Appellants : M/s.P.T.Salim Fathima

For Respondents : Mr.D.Bhaskaran (for R2)

R1 - Exparte

JUDGMENT

सत्यमेव जयते

By consent of the learned counsel appearing for both sides, the Civil Miscellaneous Appeal is taken up for final disposal.

2.The claimant preferred appeal against the award of compensation for the death of their son on 26.08.2005, and appellants have filed a compensation petition in M.C.O.P.No.4128 of 2005, before the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai, claiming compensation in a sum of Rs.5,00,000/-.

3.The Tribunal, on consideration of the oral and documentary evidence placed before it, quantified the compensation in a sum of Rs.2,05,000/- the breakup of which is hereunder:

i. Loss of dependency	Rs.1,50,000/-
ii. Transport to Hospital Funeral expenses and Medical expenses	Rs. 25,000/-
iii. Loss of love and affection	Rs. 15,000/- each

Total	Rs.2,05,000/-

4.Challenging the compensation award as inadequate and not proportionate to the loss of their son, the claimants have preferred the present appeal.

5.The main contention raised by the Learned Counsel for the appellant is that Tribunal have not fixed any method towards awarding under the Head of Loss of dependency, failed to consider to award the Medical expenses even after the Medical Bills marked as Exhibit P6 series. The Tribunal instead of fixing an annual income and upon such multiplier has to be added. It is also pointed out that the compensation awarded under the Heads are Meager.

6.I heard M/s.P.T.Salim Fathima, learned counsel appearing for the appellants and Mr.D.Bhaskaran, learned counsel appearing for the 2nd respondent and perused the entire materials available on record.

7.It is evident from the evidence available on record that the deceased was aged about 9 years at the time of the accident and he was a student of V Standard. The accident has happened in the year 2005. There is no dispute with regard to the age of the claimant. Therefore, it would be safe to fix the annual income of the deceased as Rs.30,000/- per annum and the correct multiplier for the age of the deceased is 18.

8.The appellants stated that the deceased was died due to the accident took place on 26.08.2005, however the Tribunal erred in awarding lump sum of Rs.1,50,000/- towards loss of dependency was without any basis, which as contended by the

Learned Counsel for appellants is on the very low side. A perusal of record this court is of the considered view that Rs.30,000/- has to be fixed as loss of dependency per annum and also adopt 18 multiplier would meet the ends of justice. Accordingly, a sum of Rs.5,40,000/- (Rs.30,000/- x 18) is awarded towards loss dependency.

9. In so far as compensation awarded under the heads of love and affection, transport to hospital, medical expenses and funeral expenses, it is evident from the records that amount awarded by the Tribunal was not correct, considering the entire factual matrix and the case in hand, this court award an amount of Rs.40,000/- towards consortium, under the head of funeral expenses Rs.15,000/-, under the head of Rs.15,000/- towards loss of amenities and Rs.25,000/- towards the medical expenses.

10. The award of Tribunal is modified under the following heads:

i. Loss of dependency (Rs.30,000 x 18)	Rs. 5,40,000/-
ii. Loss of love and affection	Rs. 30,000/-
iii. Medical Bills	Rs. 25,000/-
iv. Funeral expenses	Rs. 15,000/-
v. Loss of estate	Rs. 15,000/-

Total	Rs.6,25,000/-

11. In the result, this appeal is allowed in part, enhancing the compensation from Rs.2,05,000/- to Rs.6,25,000/-. However, there shall be no order as to costs.

12. The 2nd respondent/Insurance company is directed to deposit the enhanced award amount, as ordered by this court above, along with interest and costs, less the amount, if any, already deposited, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount as per the ratio fixed by the Tribunal directly to the bank account of the claimants through RTGS within a period of two weeks thereafter. The appellants are directed to pay the deficit court fee and Registry is directed to draft the decree only after payment of the deficit court fee by the appellants.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vs

To

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

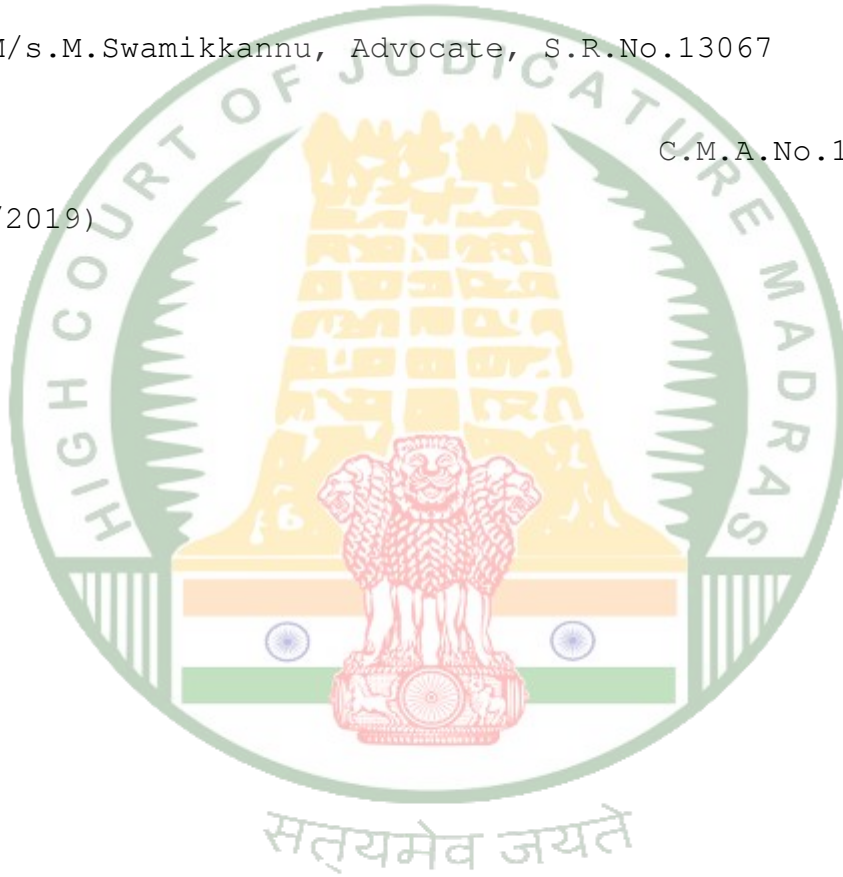
copy to: The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.D.Bhaskaran, Advocate, S.R.No.13228

+1 cc to M/s.M.Swamikkannu, Advocate, S.R.No.13067

C.M.A.No.1074 of 2009

MG (CO)
SSM(20/09/2019)



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