

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1135 of 2012

1.A.Mariathangam

2.G.Antonyamy

...Appellants/Petitioners

Vs.

The Metropolitan Transport Corporation Ltd.,
rep.by Managing Director,
pallvan Salai,
Chennai-2

.... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 06.06.2011, in M.C.O.P.No.3267 of 2007, on the file of the Motor Accidents Claims Tribunal, the Chief Judge, Court of Small Causes, Chennai.

For Appellant : Mr.S.Gangaram Prasad

For Respondent : Mr.K.S.Suresh

JUDGMENT

The parents of the deceased are the appellants herein and they are filed in M.C.O.P.No.3267 of 2007, on the file of the Motor Accidents Claims Tribunal, the Chief Judge, Court of Small Causes, Chennai. They are filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.6,00,000/- for the injuries sustained by him in a road accident that took place on 20.07.2007.

2. The brief case of the appellant/claimant is as follows:

(i) The deceased was aged 20 years on the date of the accident. He was working as incharge of provision store-cum-salesman, earning a sum of Rs.4,500/- per month.

(ii) On 20.07.2007 at about 22.30 hours, the deceased was travelling as a pillion rider in a cycle ridden by his co-employee and were proceeding from West to East on Erukkancherry high road, Salaima Nagar, Chennai and at that time, the driver of the respondent's bus bearing Registration No.TN 01 N 4362 was driving the bus in a rash and negligent manner from behind on the said road and dashed against the cycle, as a result, the pillion rider fell down and the said bus ran over him, resulting in his death on the spot and the

accident was occurred only due to the rash and negligent driving of the driver of the respondent's bus. The claimants are the parents of the deceased and they claimed a compensation of Rs.6,00,000/- from the respondent-Transport Corporation.

3. Before the Tribunal P.W.1 and P.W.2 were examined and Exhibits P1 to P7 were marked and on behalf of the respondent R.W.1 was examined and no documents were marked.

4. On consideration of both oral and documentary evidence adduced on either side, the Tribunal has awarded a sum of Rs.3,17,000/- as compensation and hence, having not satisfied with the quantum of compensation awarded by the Tribunal, the parents of the deceased bachelor has preferred this appeal.

5. Heard both sides and perused the records.

6. The factum of the accident, manner of the accident and finding regarding rash and negligent driving on the part of the driver of the first respondent's vehicle are not in dispute.

7. On the point of quantum, both the parties were heard.

8. The learned counsel for the appellants/petitioners would submit that the age of the deceased at the time of accident was 20 years and as per the decision of the Constitution Bench of the Honourable Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 601, the age of the parents should not be the criteria and only the age of the victim should be taken following the decision of the Hon'ble Supreme Court reported in 2009 (2) TN MAC 1 SC [Sarala Verma and Others Vs. Delhi Transport Corporation and another] and submitted that the multiplier should be '18' not as 11 fixed by the Motor Accidents Claims Tribunal based upon the decision prevailing at that time.

9. On the date of the accident, the deceased was aged about 20 years as per the evidence of P.W.2, who is the co-employee of the deceased and was working as in-charge of provisions stores-cum-sales man in Kavitha stores and earned a sum of Rs.4,500/- per month and the same appears to be reasonable and 40% of monthly income, i.e., Rs.1,800/- is added towards future prospects and the annual income is calculated at Rs.75,600/- and in view of the aforesaid decision, 50% i.e., Rs.37,800/- has to be deducted as the deceased was a bachelor and 18 multiplier has to be adopted and hence, the annual income of the deceased bachelor is calculated at Rs.6,80,400/-. [Rs.4,500 + Rs.1800 (40% of 4500) x 12 x 50% x 18 = Rs.6,80,400/-].

10. Furthermore, the petitioners are the parents of the deceased and accordingly, for loss of love and affection, a sum of Rs.50,000/- has been granted to each one of them, totalling to Rs.1,00,000/-. With regard to funeral expenses, the amount awarded by the Tribunal is enhanced from Rs.10,000/- to Rs.15,000/- and for "loss of estate", a sum of Rs.15,000/- is awarded. Thus, in toto, the compensation awarded is hereby tabulated:

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of pecuniary benefits	Rs.2,97,000/-	Rs.6,80,400/-
Loss of Love and Affection to the parents of the deceased	Rs. 10,000/-	Rs.1,00,000/-
Funeral Expenses	Rs. 10,000/-	Rs. 15,000/-
Loss of Estate	-----	Rs. 15,000/-
Total	Rs. 3,17,000/-	Rs.8,10,400/-

11. The award amount granted by the Motor Accidents Claims Tribunal, Vellore, to the tune of Rs.8,10,400/- is enhanced as above.

12. In short, the enhanced amount of compensation is arrived at Rs.8,10,400/- and the respondent-Transport Corporation is required to deposit the said amount with interest at the rate of 7.5% from the date of petition till the date of payment, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimants/appellants are entitled to withdraw their respective shares as per the apportionment of the Tribunal.

13. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is partly-allowed to the extent indicated above. No costs. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

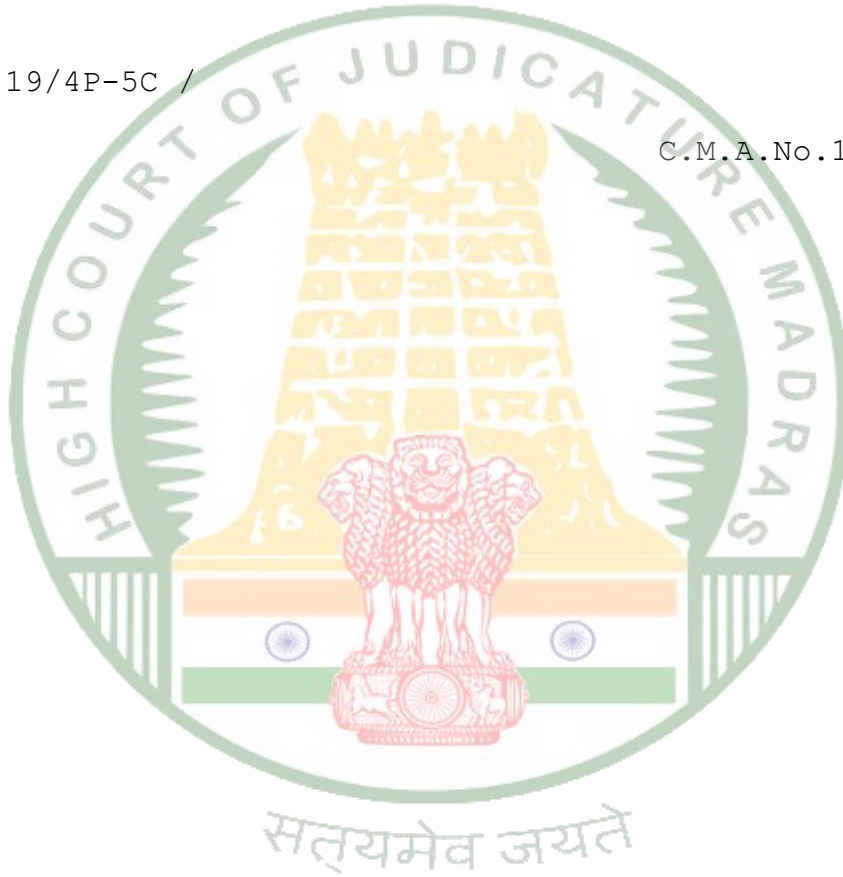
The Motor Accident Claims Tribunal,
The Chief Judge, Court of Small Causes,
Chennai.

Copy to : The Section Officer, V.R.Section,
High Court of Madras.

+1 cc to M/s.G.Balaji Prasad, Advocate Sr.No. 28743
+1 cc to Mr.K.S.Suresh, Advocate, Sr.No.27914

AKM/13.09.19/4P-5C /

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