

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2508 of 2013

1.Kalaivani
2.Vediammal

... Appellants/Petitioners

vs.

Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director,
Pallavan Salai, Chennai - 600 002.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 07.09.2012 in M.C.O.P.No.1 of 2009 on the file of the Motor Accident Claims Tribunal / Chief Judge, Court of Small Causes, Chennai.

Appellants : Ms.A.Subdra
for Mr.F.Terry Chella Raja

Respondent : Mr.S.Sivakumar

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.1 of 2009 on the file of the Motor Accident Claims Tribunal / Chief Judge, Court of Small Causes, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death of one Kannayiram, husband of the first claimant and son of the second claimant in a road accident on 28.11.2008.

2. The case of the claimants in nutshell is as follows:

On 28.11.2008, the deceased Kannayiram was riding his bicycle on Manali Kamaraj Salai near BSNL office and at about 5.45 p.m, a speeding bus bearing Registration No. TN 01 N 3769 hit the bicycle, as a result whereof, the deceased Kannayiram fell down and sustained grievous injuries all over his body and died in the hospital on 14.12.2008.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the bus belonging to the respondent / Metropolitan Transport Corporation Limited, Chennai and therefore, they are liable to pay compensation.

4. The learned Chief Judge / Motor Accident Claims Tribunal, Court of Small Causes, Chennai after analysing the evidence on record, awarded a compensation of Rs.8,35,600/- together with interest at the rate of 7.5% 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.

5. Heard Ms.A.Subdra learned counsel appearing for the appellants and Mr.S.Sivakumar, learned counsel appearing for the respondent.

6. In the claim petition, it is contended that the deceased was a labourer, earning a sum of Rs.200/- per day. In the absence of income proof, the Tribunal fixed the notional income of the deceased as Rs.4,500/- per month. It is pertinent to point out that the accident took place in the year 2008 and in the facts and circumstances, this Court is of the opinion that fixing a sum of Rs.6,000/- as notional monthly income of the deceased would meet the ends of justice. The deceased was aged 28 years on the date of the accident. As per the decision of the Supreme Court of India in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 40% should be added towards future prospects of the deceased. Since there are two dependents, 1/3rd of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 17 as per the decision rendered in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

Notional Income = Rs.6,000/-
40% Future Prospects = Rs.8,400/-
After 1/3 deduction = Rs.5,600/-
Loss of dependency
= Rs.5,600/- x 12 x 17
= Rs.11,42,400/-

7. Apart from the above said amount, the appellants / claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards "loss of estate", "loss of consortium" and "funeral expenses" respectively, as per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under

various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.11,42,400/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of consortium	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.12,12,400/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.8,35,600/- to Rs.12,12,400/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.8,35,600/- to Rs.12,12,400/-.

(iii) The appellants / claimants are directed to pay 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 receipt of the Court fee.

(iv) The respondent / Metropolitan Transport Corporation Limited is directed to deposit the enhanced compensation amount i.e., Rs.12,12,400/- (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 M.C.O.P.No.1 of 2009 on the file of the Motor Accident Claims Tribunal / Chief Judge, Court of Small Causes, Chennai 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 orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

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

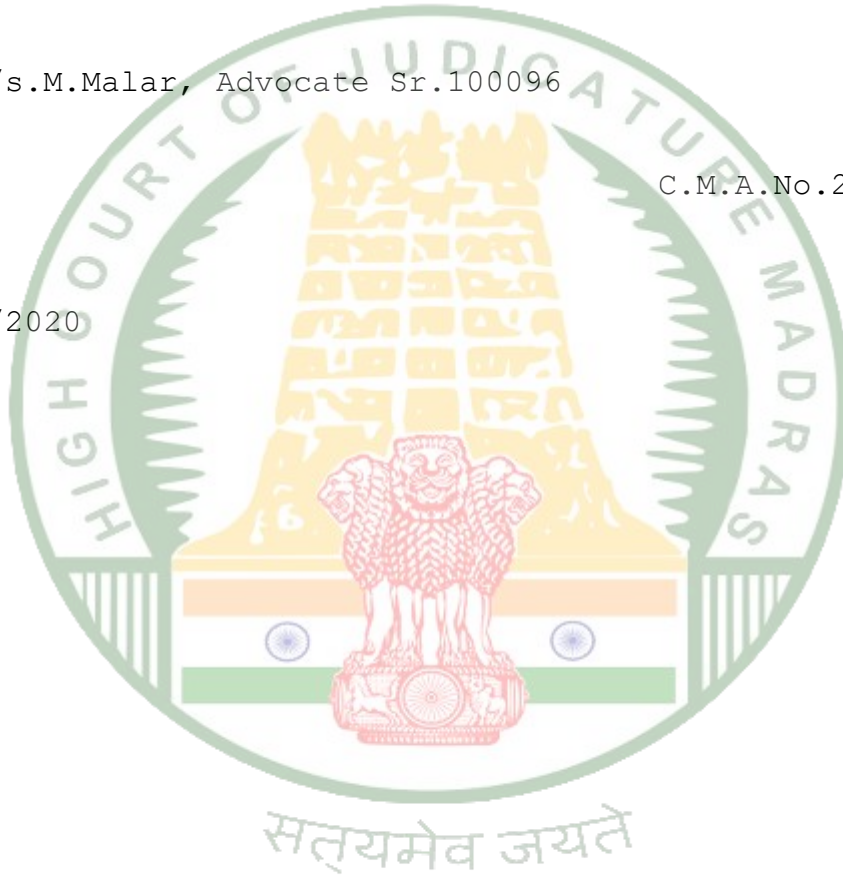
Copy to

The Section Officer,
VR Section, High Court, Madras-104.

+1cc to M/s.M.Malar, Advocate Sr.100096

C.M.A.No.2508 of 2013

gmr[col]
srg 27/02/2020



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