

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3601 of 2012

1.S.Devaki

2.Minor S.Jayashree

rep. by her mother and
natural guardian S.Devaki

...Appellants/Petitioner

..Vs..

1.The Managing Director,

Chennai Metropolitan Transport Corp. Ltd.,

Division-I, Chennai-2.

.... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order passed in M.C.O.P.No.3115 of 2002, dated 22.06.2005, on the file of the Motor Accident Claims Tribunal, III Small Causes Judge, Chennai.

For Appellants : Mr.Terry Chellaraja

For Respondent : Mr.K.Suresh

JUDGMENT

The appellants are the claimants in M.C.O.P.No.3115 of 2002 on the file of the III Judge, Court of Small Causes, Chennai. They filed the above claim petition seeking compensation of Rs.2,00,000/- for the death of the one Dinesh who was aged 12 years on the date of the accident.

2.The brief facts of the case of the appellants/claimants are as follows:

On 14.06.2002, the deceased Dinesh was riding his bicycle at Bharathi street near Railway Bridge, Triplicane, Chennai-5. At about 06.55 pm, a bus bearing Registration No. TN 01 N 3238 belonging to the respondent hit him, as a result of which, he sustained injuries in head and died on the way to the hospital. According to the appellants/claimants, the rash and negligent driving of the driver of the Chennai Metropolitan Transport Corporation was the cause of the accident and that they are liable to pay compensation to them.

3. The respondent contested the claim petition. The learned III Judge, Court of Small Causes, Chennai after analysing the evidence on record, awarded compensation of Rs.1,00,000/- together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit to the appellants/claimants. Aggrieved over the quantum of compensation awarded by the tribunal, the appellants/claimants filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr. Terry Chellaraja, learned counsel appearing for the appellants would contend that the compensation of Rs.1,00,000/- awarded by the tribunal is very meagre, especially, when the deceased was a boy aged 12 years. He relied on the decision in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC) and contended that the Honourable Supreme Court 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. K. Suresh, learned counsel appearing for the respondent would contend that, since, in the present case, the accident took place only in the year 2002, awarding a sum of Rs.1,00,000/- is very reasonable.

6. In the decision in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC) (cited supra), the Honourable Supreme Court has awarded compensation of Rs.5,00,000/- for the death of a boy aged 10 years. Therefore, 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.

7. In the result,

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

(ii) The quantum awarded by the tribunal is enhanced from Rs.1,00,000/- to Rs.5,00,000/-.

(iii) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of court fee.

(iv) The respondent Chennai Metropolitan Transport Corporation is directed to deposit the enhanced compensation amount (less the amount already deposited by them) 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.3115 of 2002, dated 22.06.2005, on the file of the Motor Accident Claims Tribunal, III Small Causes Judge, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) Though the tribunal has awarded interest at the rate of 9% per annum, it is made clear that the appellants/claimants are entitled to interest only at the rate of 7.5% per annum.

(vi) On such deposit being made by the respondent, the appellants/claimants are at liberty to withdraw the same as apportioned by the tribunal after following due process of law.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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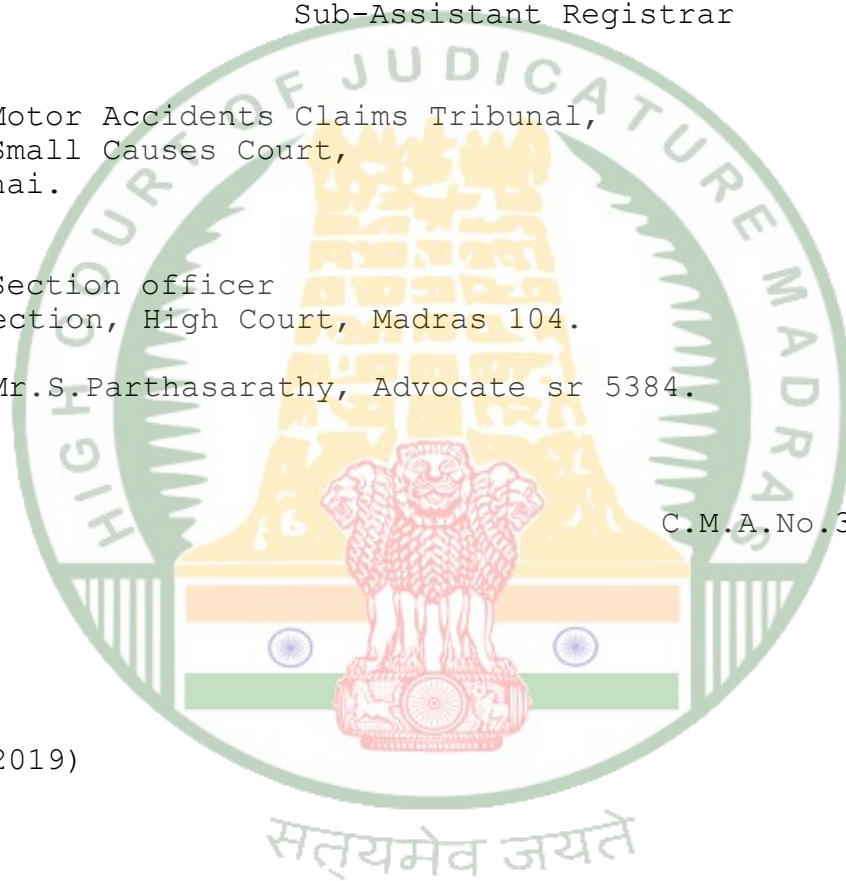
The Motor Accidents Claims Tribunal,
III Small Causes Court,
Chennai.

copy to
The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.S.Parthasarathy, Advocate sr 5384.

C.M.A.No.3601 of 2012

VGII (CO)
SP(24/04/2019)



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