

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.2890 of 2013

1.Sivalingam

2.Lakshmi

...Appellants

..Vs..

1.Nagappan

2.The Divisional Manager

The New India Assurance Co. Ltd.,

No.I, Officers Line,

Vellore.

.... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgement dated 12.04.2011 made in M.A.C.T.O.P.No.57 of 2003 on the file of the Motor Accidents Claims Tribunal / Principal Subordinate Judge, Tiruvannamalai.

For Appellants : Mr.Terry Chellaraja

For Respondents : R1 - No Appearance

R2 - Mrs.R.Sreevidhya

J U D G M E N T

The appellants are the claimants in M.A.C.T.O.P.No.57 of 2003 on the file of the Motor Accidents Claims Tribunal / Principal Subordinate Judge, Tiruvannamalai and they filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the death of their daughter Thenmozhi, aged 5 years, in a road accident that took place on 02.07.2002.

2. The case of the claimants is that on 02.07.2002, at about 08.45 a.m., when the claimants' daughter and her friend were walking along Alambadi Kandachipuram Road, near Chengamedu bus stop, a speeding motor cycle hit the claimants' daughter as a result of which, she sustained fatal injuries and died on the spot.

3. According to the claimants, the rash and negligent riding of the rider of the motor cycle belonging to the 1st respondent was the cause of the accident and that since the said vehicle was insured with the 2nd respondent, Insurance Company, the owner and the insurer are jointly and severally liable to pay compensation.

4. The learned Principal Subordinate Judge, Tiruvannamalai, after analysing the evidence on record, awarded a compensation of Rs.1,00,000/- 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. Mr.Terry Chellaraja, learned counsel appearing for the appellants would contend that the compensation of Rs.2,00,000/- awarded by the Tribunal is very meagre, especially, when the deceased was a girl aged five 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 Honourable 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.

6. Per contra, Mrs.R.Sreevidhya, learned counsel appearing for the 2nd respondent would contend that, since in the present case, the accident took place in the year 2002, awarding compensation of Rs.2,00,000/- is very reasonable.

7. In the decision in Kishan Gopal and another v. Lala and others (cited supra), the Honourable Supreme Court of India 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.

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.2,00,000/- to Rs.5,00,000/-.

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

(iv) The 2nd respondent / Insurance Company is directed to deposit the entire compensation amount i.e., Rs.5,00,000/- (less the amount already deposited if any) 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 MCOP.No.57 of 2003 on the file of the Motor Accidents Claims Tribunal / Principal Subordinate Judge, Tiruvannamalai, within a period of four weeks from the date of receipt of a copy of this judgment.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the Award passed by the Tribunal after following due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-
Asst. Registrar

//True Copy//
Sub Asst. Registrar

ssn

To

1. The Motor Accidents Claims Tribunal,
Principal Subordinate Judge,
Tiruvannamalai.

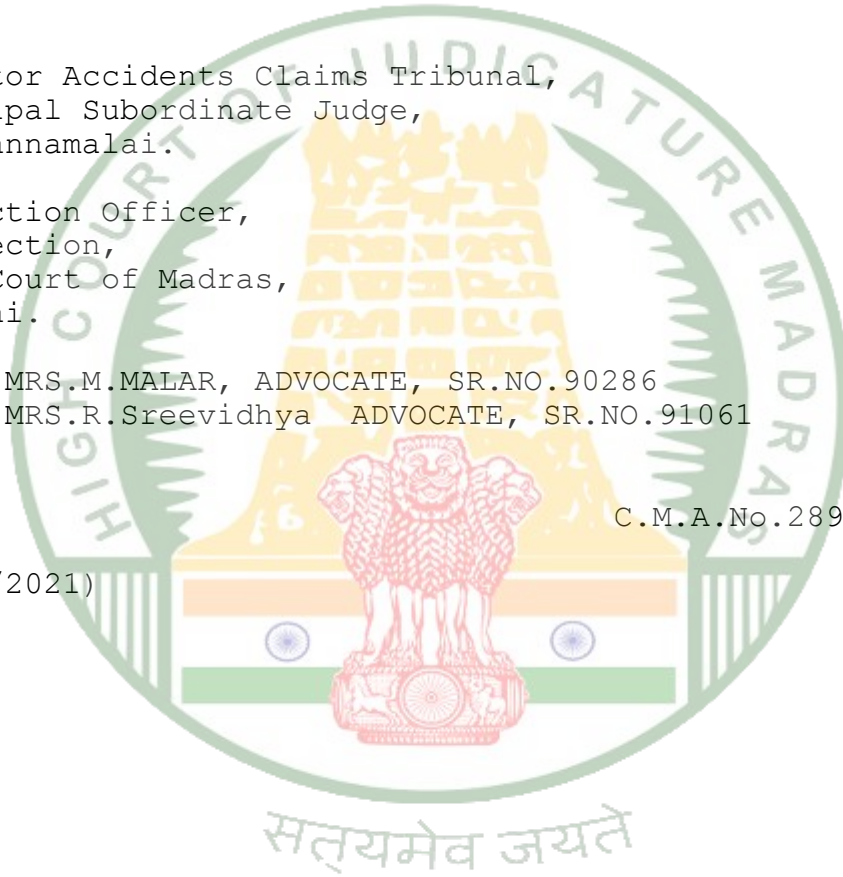
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+1 C.C.to MRS.M.MALAR, ADVOCATE, SR.NO.90286

+1 C.C.to MRS.R.Sreevidhya ADVOCATE, SR.NO.91061

C.M.A.No.2890 of 2013

VC (22/01/2021)



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