

C.M.P.No.15448 of 2019
in C.M.A.SR.No.66922 of 2019

R.MAHADEVAN, J.

By the impugned judgment dated 28.04.2018 in MCOP No.387 of 2013, the Tribunal has awarded a compensation of Rs.8,86,000/- as against the claim of Rs.9,00,000/- made by the petitioners herein, who are the parents of the deceased-Thangaraj, who died in a motor vehicle accident on 11.01.2013.

2. Being dissatisfied with the quantum awarded by the Tribunal, the petitioners/claimants have filed the present appeal, seeking enhancement of the same. They have filed this miscellaneous petition to amend the claim of compensation from Rs.9,00,000/- to Rs.19,50,000/- stating that they are entitled for more compensation than what has been claimed in the claim petition and the compensation awarded by the Tribunal.

3. The learned counsel for the petitioners / appellants, reiterating the averments made in the affidavit filed in support of this petition, has given an undertaking before this Court that the petitioners will pay the required Court fee in the event of succeeding in the appeal, for the enhanced amount of compensation. Stating so, the learned counsel has prayed for the relief, as sought for in this miscellaneous petition.

4.At this juncture, it is relevant to refer to the judgment of the Hon'ble Supreme Court in the case of Nagappa v. Gurudayal Singh and others [2004 (2) TNMAC 398 (SC)]. Paragraph-21 of the said judgment reads as follows:

"21.For the reasons discussed above, in our view, under the Motor Vehicles Act, there is no restriction that Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award 'Just' compensation which is reasonable on the basis of evidence produced on record. Further, in such cases, there is no question of claim becoming time barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub section (4) to Section 166, even report submitted to the Claims Tribunal under sub section (6) of Section 158 can be treated as an application for compensation under the M.V. Act. If required, in appropriate cases, Court may permit amendment to the Claim Petition."

5.Considering the facts and circumstances of the case and also in the light of the decision of the Hon'ble Supreme Court (cited supra), recording the undertaking given on behalf of the petitioners that they will pay the required Court fee in the event of succeeding in the appeal, for the enhanced amount of compensation, the petitioners are permitted to amend the claim of compensation, as prayed for.

6.This petition is ordered accordingly.

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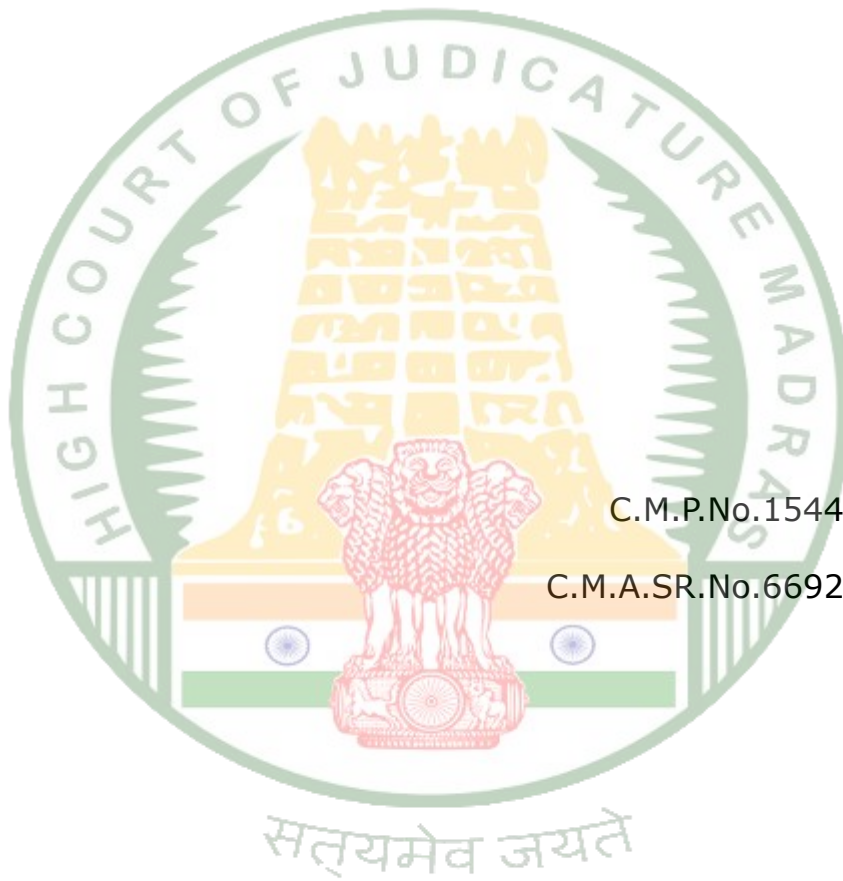
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