

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.216 of 2014

1.Latha
2.Manohar

... Appellants/Claimants

vs.

Metropolitan Transport Corp. Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai - 600002. ...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 24.09.2012 in M.C.O.P.No.4105 of 2009 on the file of the Motor Accident Claims Tribunal / III Judge, Court of Small Causes, Chennai.

For Appellants : Mrs.A.Subadra
for Mrs.M.Malar

For respondent : Mr.K.S.Suresh

J U D G M E N T

The appellants are the claimants in MCOP.No.4105 of 2009, on the file of the Motor Accident Claims Tribunal / III Judge, Court of Small Causes, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.6,00,000/- for the death of their son Arjun, in a road accident on 24.07.2009.

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

On 24.07.2009, the deceased was riding a motorcycle bearing Registration No. TN 05 X 1177 with a pillion rider and at about 09.00 hours, when he was nearing IBP Petrol Bunk, Ponniammanmedu Junction, a speeding Metropolitan Transport Corporation bus bearing Registration No.TN 01 3630, hit him, as a result of which, the deceased Arjun sustained injuries and died on the spot. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Metropolitan Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

3. The Metropolitan Transport Corporation contested the claim petition and the learned III Judge, Court of Small Causes / Motor Accident Claims Tribunal, Chennai after analysing the evidence on record, awarded a compensation of Rs.7,00,000/- together with interest at the rate of 7.5% per annum to the claimants. Not 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.

4. Heard Mrs.A.Subadra, learned counsel appearing for the appellants and Mr.K.S.Suresh, learned counsel appearing for the respondent.

5. A perusal of the records shows that in the claim petition, it is mentioned that the deceased was working as a site supervisor, earning a sum of Rs.8,000/- per month. However, no proof of income is adduced. Hence, considering the year of accident, a sum of Rs.7,500/- is fixed as notional monthly income of the deceased. The Tribunal did not award any amount towards "future prospects" of the deceased, especially, when the deceased was aged 19 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 the deceased was a bachelor on the date of the accident, 50% of his income is deducted towards his personal expenses and the proper multiplier to be adopted in the instant case is 18 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

Notional Income = Rs.7,500/-
40% Future Prospects = Rs.3,000/-
Total = Rs.7,500/- + Rs.3,000/- = Rs.10,500/-
After 50% deduction = Rs.5,250/-

Loss of dependency
= Rs.5,250/- x 12 x 18
= Rs.11,34,000/-

6. 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 love and affection" 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.11,34,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.12,04,000/-

7. Thus, the compensation awarded by the Tribunal is enhanced from Rs.7,00,000/- to Rs.12,04,000/- which would carry interest at the rate of 7.5% per annum.

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.7,00,000/- to Rs.12,04,000/-.

(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 is directed to deposit the enhanced compensation amount i.e., Rs.12,04,000/- (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 MCOP.No.4105 of 2009, on the file of the Motor Accident Claims Tribunal / III 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.

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Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar

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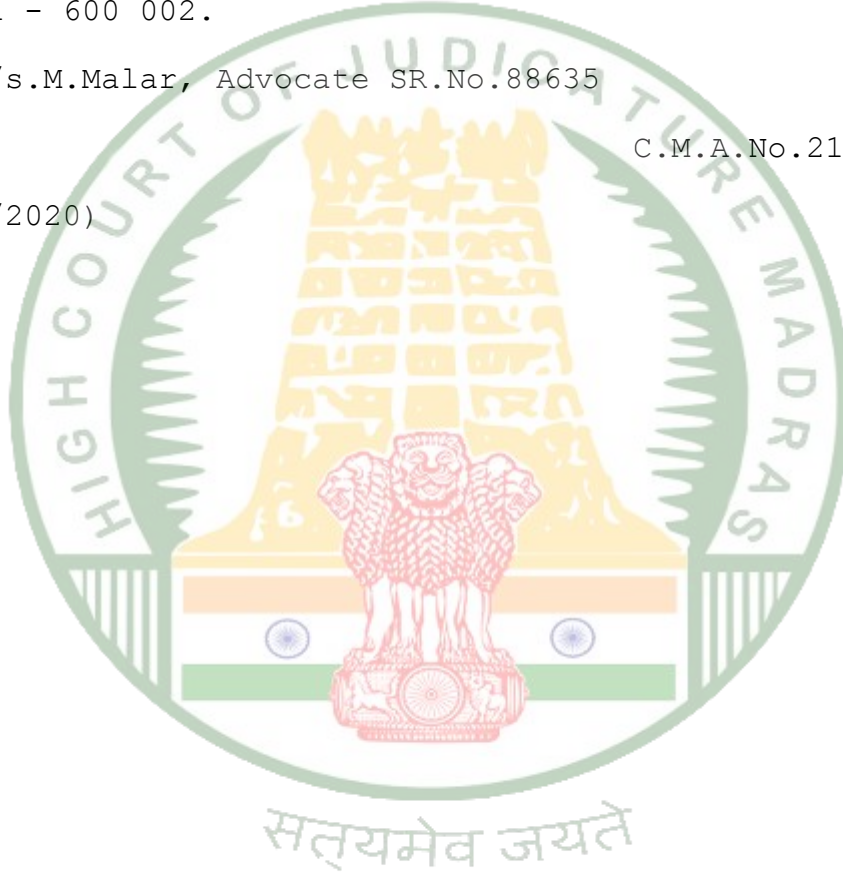
1.The Motor Accidents Claims Tribunal,
The III Judge,
Court of Small Causes,
Chennai.

2.The Managing Director,
Metropolitan Transport Corp. Ltd.,
Pallavan Salai,
Chennai - 600 002.

+1cc to M/s.M.Malar, Advocate SR.No.88635

C.M.A.No.216 of 2014

GP(CO)
GMY(03/03/2020)



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