

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3099 OF 2017

1.S.Ganesan
2.G.Malliga
3.G.Sridevi
4.G.Kalaiarasi

... Appellants/Claimants

Vs.

1.M.Rajkumar
2.The Divisional Manager
United India Insurance Company Limited,
No.35-J, M.B.T. Road,
Ranipet,
Vellore Dist. 632 513.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the order and judgment dated 16.03.2017 in MCOP No.317 of 2013 on the file of Motor Accident Claims Tribunal (In the court of the Sub Court, Ranipet, Vellore District).

For Appellant : Mr.G.Rajan

For R1 : No appearance

For R2 : Mr.S.Arunkumar

J U D G M E N T

The appellants/claimants filed M.C.O.P.No.317 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Ranipet, Vellore District, claiming a sum of Rs.50,00,000/- as compensation for the death of one Bharathkumar, who died in the accident that took place on 13.08.2013.

2.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding by the rider of the two-wheeler belonging to the 1st respondent and directed the 2nd respondent- Insurance Company, being the insurer of the vehicle, to pay a

sum of Rs.8,49,000/- as compensation to the appellants/claimants.

3. Being dissatisfied with the quantum so awarded by the Tribunal, the appellants/claimants have come out with the present appeal, seeking enhancement of the same.

4. The learned counsel appearing for the appellants contended that the deceased was aged 26 years at the time of accident. He was working as a Computer Teacher in Tamil Nadu State Government Panchayat Union Higher Secondary School and was earning a sum of Rs.10,000/- per month. However, the Tribunal erred in fixing the monthly income of the deceased as Rs.6,000/-, without adding any amount towards future prospects. The learned counsel further submitted that the compensation awarded under other heads are also very meager and hence, the same needs substantial enhancement.

5. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellants did not let in any evidence to substantiate their claim that the deceased was earning a sum of Rs.10,000/- per month. Moreover, P.W.3-Head Mistress of the School, where the deceased was working, has deposed to the effect that the deceased was drawing a consolidated salary of Rs.5,000/- which is evidenced by Exs.P14 & P15- Pay slips. However, the Tribunal, taking into consideration the technical qualification and the likelihood of employment opportunities, has notionally fixed the monthly income of the deceased as Rs.6,000/-. Hence, the learned counsel submitted that the compensation awarded by the Tribunal is just and reasonable and the same does not call for any interference by this Court.

6. Heard the learned counsel appearing for the appellants as well as the 2nd respondent-Insurance Company and perused the materials available on records.

7. According to the appellants, the deceased was working as a Computer Teacher in Tamil Nadu State Government Panchayat Union Higher Secondary School and was earning a sum of Rs.10,000/- per month. Though the salary slips of the deceased marked as Exs.P.14 & P15 would reveal that the deceased was drawing a consolidated salary of Rs.5,000/- per month, taking into consideration the age, qualification and future prospects of the deceased, this Court deems it just and reasonable to fix a sum of Rs.10,000/- as his monthly income. Since the deceased was a bachelor at the time of accident, 50% has to be deducted towards his personal expenses. The appellants have claimed that the deceased was aged 26 years at the time of accident, as per Ex.P2 - Postmortem certificate, the deceased was 29 years old

and hence, the correct multiplier to be adopted is 17. Thus, the compensation under the head "loss of dependency" is determined at Rs.10,20,000/- (10,000 x 12 x $\frac{1}{2}$ x 17). Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.10,20,000/-. Further, the Tribunal has awarded Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- towards loss of expectation of life, Rs.7,000/- towards loss of estate, Rs.10,000/- towards funeral expenses and Rs.20,000/- towards mental agony, which in the opinion of this Court, are just and reasonable and hence, the same need not be interfered. That apart, there is no modification with regard to the dismissal of the claim petition as against the appellants 3 and 4, who are the sisters of the deceased. Thus, the compensation awarded by the Tribunal is enhanced as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	6,12,000/-	10,20,000/-	Enhanced
2.	Loss of Love and affection	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of expectation of life	1,00,000/-	1,00,000/-	Confirmed
4.	Loss of estates	7,000/-	7,000/-	Confirmed
5.	Funeral expenses	10,000/-	10,000/-	Confirmed
6.	Mental agony	20,000/-	20,000/-	Confirmed
	Total	8,49,000/-	12,57,000/-	Enhanced

However, it is made clear that the enhanced sum of Rs.4,08,000/- shall carry interest at 7.5%pa only from the date of filing of this appeal.

8. In the result, the appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from Rs.8,49,000/- to Rs.12,57,000/-. No costs. The 2nd respondent-Insurance Company is directed to deposit the entire compensation as awarded by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same as

per the ratio of apportionment made by them, to the respective bank accounts of the appellants 1 and 2 through RTGS within one week thereafter.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

rgr/rk

To

1.The Subordinate Judge
Motor Accident Claims Tribunal
Ranipet, Vellore District.

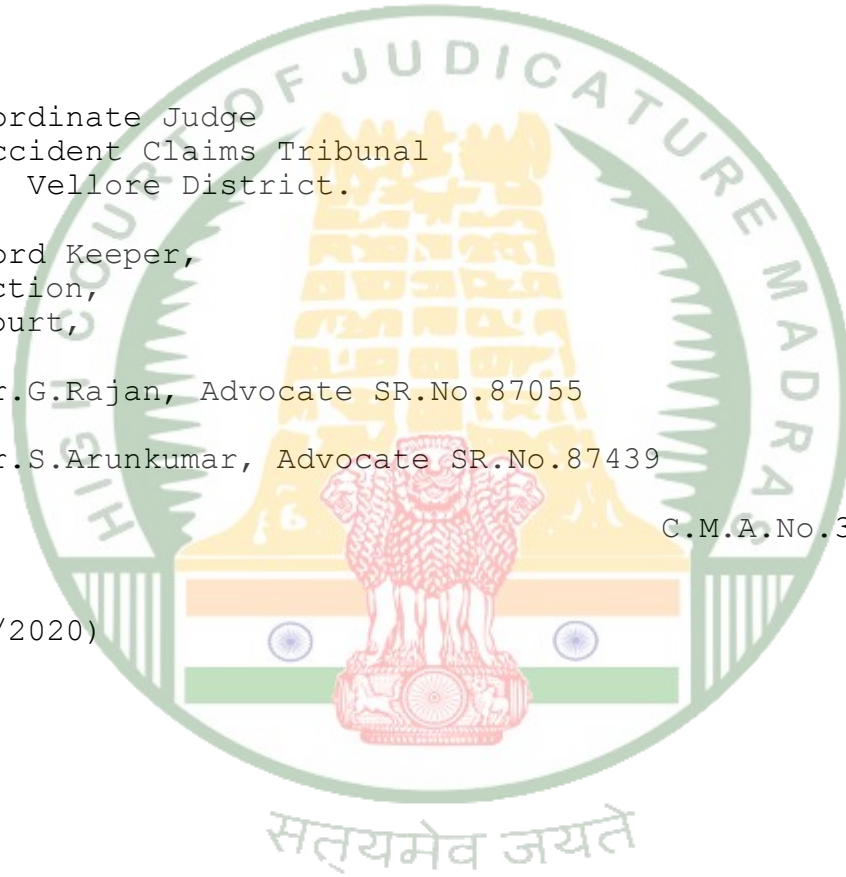
2.The Record Keeper,
V.R.Section,
High Court,

+1cc to Mr.G.Rajan, Advocate SR.No.87055

+1cc to Mr.S.Arunkumar, Advocate SR.No.87439

C.M.A.No.3099 OF 2017

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