

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3279 of 2017

1.Ramasamy
2.R.Veerabathiran
3.R.Vaikunthan
4.R.Rajendran
5.R.Arusamy

... Appellants/Claimants

Vs

1.P.Nallaumuthupandi
2.C.Munian

3.The Reliance General Insurance Co.Ltd.,
2nd Floor, 438B, Sri Abhirami Tower,
Cowley Brown Road, R.S.Puram,
Coimbatore.

... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.09.2016 made in MCOP No.461 of 2015 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Erode.

For Appellants : Mr.R.Nalliyappan

For Respondents : Mr.S.Arunkumar for R3

R1 and R2 : Exparte

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.2,91,674/- towards compensation due to the death of the wife of the first appellant, in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 22.07.2015 at about 09.30 p.m., the deceased Ramathal @ Rammakkal was walking on the Vadavalli -

Maruthamalai Road from East to West direction at the extreme left side. When she was nearing BSNL Office, a Crane Vehicle bearing Reg. No.TN-38-BQ-6757, driven by the first respondent herein in a rash and negligent manner, came from the same direction and dashed against the deceased. Due to the said impact, the deceased sustained multiple bone fractures and grievous head injury. She was taken to Mowthi Nursing Home, Vadavalli, where she took treatment as in-patient from 22.07.2015 to 24.07.2015. Thereafter, she was taken to Kongunad Hospitals, Coimbatore, where she was in-patient for one day. Thereafter, she was shifted to the Coimbatore Medical College Hospital, Coimbatore on 25.07.2015 and she died in the hospital on 26.07.2015. The husband and sons of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.7,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,91,674/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellants-claimants have filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4.The learned counsel for the appellants /claimants has submitted that the monthly income of Rs.6,500/- fixed by the Tribunal for the deceased while calculating the loss of dependency is very low, when the fact remains that she was a vegetable vendor earning a sum of Rs.10,000/- per month. It is also submitted that the amounts awarded towards other heads by the Tribunal, are also meagre. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the third respondent / Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellants and the learned counsel for the third respondent and perused the materials available on record carefully and meticulously.

7.The details of compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (Rs.)
Loss of consortium	1,00,000/-
Funeral expenses	25,000/-
Transportation expenses	10,000/-
Loss of love and affection	50,000/-
Medical expenses	43,174/-
Pain and suffering	5,000/-
Loss of dependency	58,500/-

TOTAL...	2,91,674/- =====

8. Even though in the claim petition the age of the deceased is stated as 70 years, relying upon Ex.P5-Post Mortem Certificate of the deceased wherein the age is noted as 80 years, the Tribunal fixed the age of the deceased as 80 years at the time of accident. It was put forth before the Tribunal on the side of the claimants that the deceased was earning a sum of Rs.10,000/- per month as vegetable vendor. In this connection, the Tribunal has observed that it is not believable to say that a person at the age of 80, was vending vegetables and earning a sum of Rs.10,000/- per month. But considering the fact that the deceased would have served the family and would have been useful to others, the Tribunal valued her services at the rate of Rs.6,500/- per month, deducted 1/4th of the amount towards her personal expenses, and arrived at the annual contribution to the family at Rs.58,500/-. The Tribunal has calculated the loss of income taking into account only one year, by relying upon the judgment of the Apex Court in the case of Sarla Verma and others v. Delhi Transport Corporation and another, reported in (2009) 4 MLJ 997, wherein no multiplier is specified after the age of 70 years. The Tribunal has correctly fixed the monthly income of the deceased and has correctly arrived at the monthly contribution of the deceased to the family at Rs.58,500/-. The amounts awarded by the Tribunal towards other heads are reasonable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

10. The third respondent Insurance Company is directed to deposit the compensation with interest as ordered by the Tribunal, less the amount if any already deposited, within a

period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants / claimants shall withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

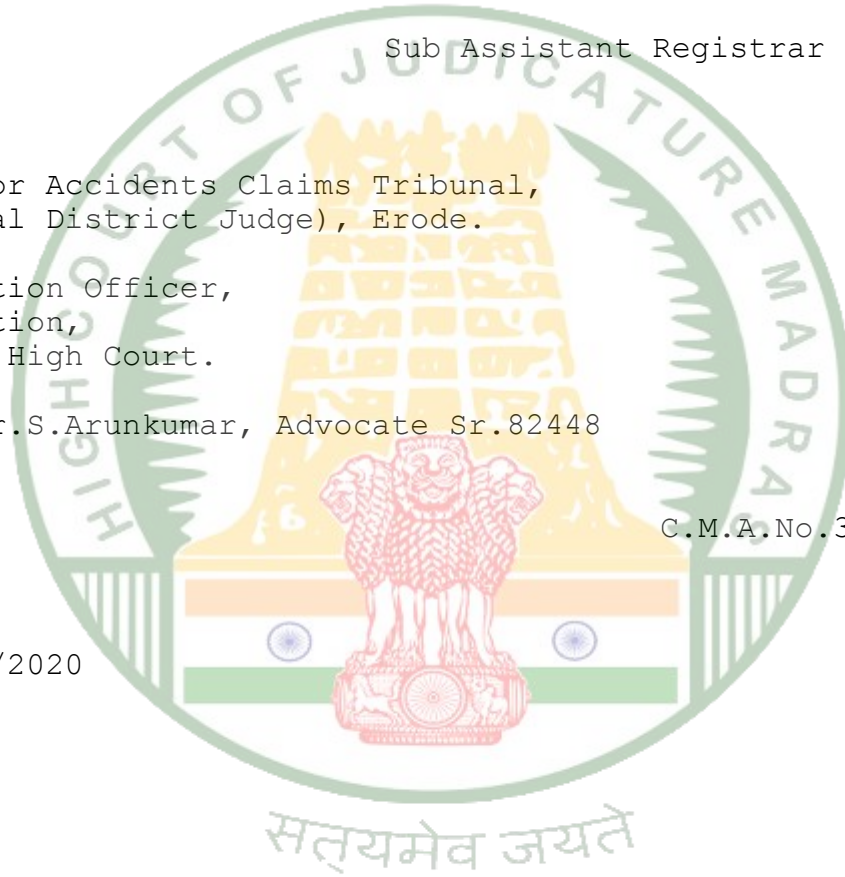
1.The Motor Accidents Claims Tribunal,
(Special District Judge), Erode.

2.The Section Officer,
VR Section,
Madras High Court.

+lcc to Mr.S.Arunkumar, Advocate Sr.82448

C.M.A.No.3279 of 2017

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