

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.488 of 2017

1. N.Pappu @ Pappammal
2. N.Chitradevi
3. N.Dharmalingam
4. N.Meena
5. K.Dhanalakshmi ... Appellants / claimants
...VS..
1. T.V.Anandi
(Exparte before the Tribunal)
2. National Insurance Co. Ltd.,
Motor Third Claims Hub
No.751 Anna Salai, Chennai 600 02
Now functioning at:
National Insurance Co. Ltd.,
Motor Third Party Claims - Hub,
3rd Floor, Regina Mansion,
No.46 Moore Street,
Chennai 600 001 ... Respondents /
Respondents before the Tribunal

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the judgment and decree, dated 03.11.2016 made in
M.C.O.P.No.4754 of 2015 on the file of the Chief Judge, Motor
Accident Claims Tribunal (Court of Small Causes), Chennai.

For Appellants : Mr. M.Swamikkannu
For Respondents : Mr. J.Chandran, for R-2,
R-1 exparte before the Tribunal.

J U D G M E N T

The fixing of monthly income at Rs.3,000/- for a man, aged 65, is under challenge, in this Appeal, on the ground that the monthly income should have been taken at least at Rs.6,500/-, relying upon the case of **Syed Sadiq v. Deputy Manager, United India Insurance Co. Ltd., reported in (2014) 1 TNMAC 459**, and that is the only issue to be decided in this Appeal.

2. The wife, sons and daughter of the deceased M.Navakkonar @ Chinnaiah have filed the claim petition for compensation, in respect of the death of the husband of the 1st appellant and father of appellants 2 to 5, on 06.05.2015, in a motor accident with the following particulars:-

1. Name of the deceased : Navakkonar @ Chinnaiah
2. Relationship with the deceased : Wife, Sons and daughter.
3. Age of the deceased : 65 years
4. Occupation of the deceased : Agriculturist and doing forewood and charcoal business nearby areas and at Chennai.
5. Income pleaded : Rs.20,000/- to Rs.23,000/- per month.
6. Compensation claimed : Rs.36,00,000/-

3. As against the claim made for a sum of Rs.36,00,000/- , the Tribunal has passed an award for a sum of Rs.3,52,000/-. While fixing the pecuniary loss, the monthly income of the deceased has been taken at Rs.3,000/- and adopting the multiplier of 7, the loss of income has been quantified at Rs.2,52,000/-.

4. The learned counsel appearing for the appellants / claimants contended that when there is a categoric pleading and evidence let in, to the effect that the deceased was an agriculturist and doing business in fire-wood and charcoal and earned Rs.15,000/- to Rs.20,000/- per month, the Tribunal has not taken note of the same and erred in fixing Rs.3,000/- as monthly income.

4.1. This contention appears to be correct, since the Supreme Court in the case of **Syed Sadiq v. Deputy Manager, United India Insurance Co. Ltd., reported in (2014) 1 TNMAC 459** has fixed the income of an agriculturist at Rs.6,500/-. However, the fact remains that the future prospective increase in income has not been added in the monthly income of the deceased. Hence, both of

them would offset each other.

5. If the monthly income is taken at Rs.6,500/- and the multiplier of 7 is adopted, the pecuniary loss would be Rs.5,46,000/-.

6. The compensation awarded under other heads, viz., consortium to wife at Rs.25,000/-, loss of love and affection at Rs.50,000/- and funeral expenses at Rs.25,000/-, by the Tribunal are in consonance with the weightage of evidence and probabilities of case and hence they are confirmed as such.

7. Thus, the total amount of compensation is enhanced from Rs.3,52,000/- to Rs.6,46,000/- with interest at the rate of 7.5% per annum from the date of petition. The second respondent / Insurance Company is directed to deposit the modified amount of compensation, less the amount if any already deposited within a period of six weeks from the date of receipt of a copy of this judgment. The shares of the compensation amount shall be apportioned among the appellants / claimants, as per the ratio of

apportionment made by the Claims Tribunal. On such deposit being made by the second respondent / Insurance Company, the Tribunal shall transfer the compensation award amount to the respective Savings Bank Accounts of the appellants / claimants. The court fee for the enhanced compensation amount shall be deposited by the claimants / appellants before receiving the copy of this judgment.

9. In the result, the Civil Miscellaneous Appeal is partly-allowed. No costs.

22.11.2019

Index : Yes / No
Web : Yes / No
Speaking order : Yes / No
srk

To

1. Chief Judge, Motor Accident Claims Tribunal (Court of Small Causes), Chennai.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

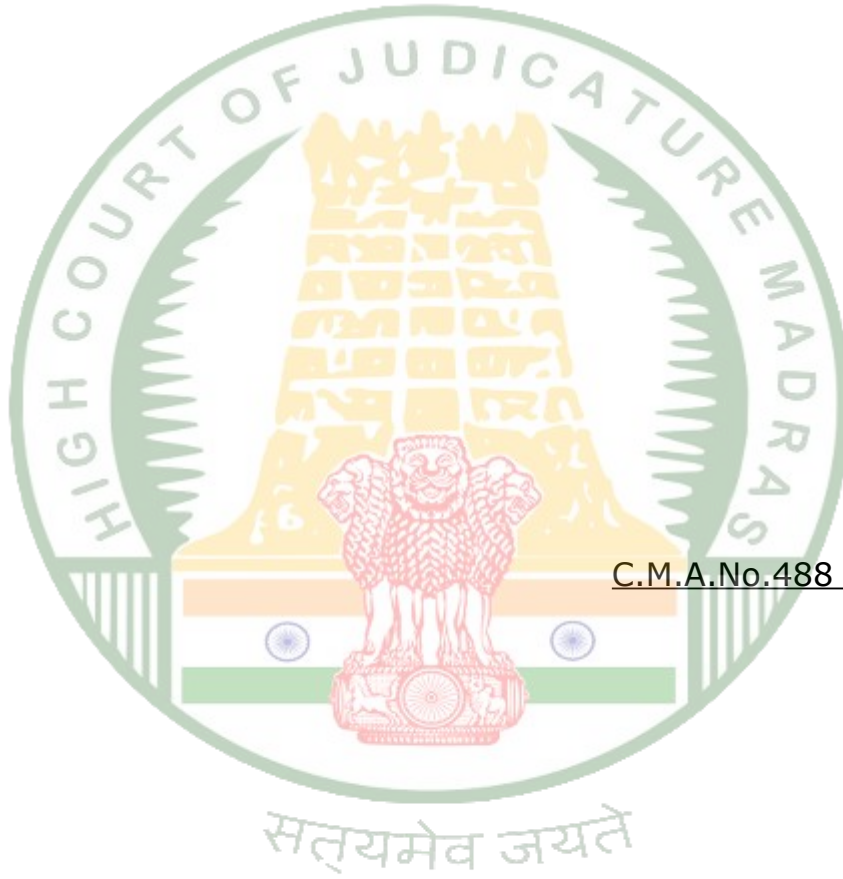
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