

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2929 of 2018

1.Patturangam

2.Nagayal

.. Appellants/Claimants

Vs.

1.R.Ganaguru

2.The National Insurance Co. Ltd.,
Madurai

.. Respondents/Respondents

(R1 remained exparte before Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.03.1995 made in M.C.O.P.No.197 of 1992 on the file of the Motor Accident Claims Tribunal, Chidambaram.

For Appellants : Mr.M.Sudharsan for
M/s.N.Damodaran

For RR2 : Mr.S.Arunkumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed for enhancement of compensation of the award dated 30.03.1995 made in M.C.O.P.No.197 of 1992 on the file of the Motor Accident Claims Tribunal, Chidambaram.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellants are claimants in M.C.O.P.No.197 of 1992 on the file of the Motor Accident Claims Tribunal, Chidambaram. They filed the above said claim petition claiming a sum of Rs.1,00,000/- as compensation for the death of their child viz., Senthil Kumar, who died in the accident that took place on

19.04.1992.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry belonging to the first respondent and directed the second respondent/Insurance Company to pay a sum of Rs.32,000/- as compensation to the appellants/claimants.

5.Not being satisfied with the award amount granted by the Tribunal, the appellants have come out with the present appeal for enhancement of compensation.

6.The learned counsel appearing for the appellants contended that the amounts awarded by the Tribunal is very meager. The Tribunal ought to have awarded atleast a sum of Rs.40,000/- as compensation towards loss of income as the deceased was a brilliant student and erred in awarding only a sum of Rs.20,000/- towards loss of income. The Tribunal erred in not awarding compensation towards loss of consortium. The Tribunal ought to have awarded compensation as claimed by the appellants without disallowing any portion and prayed for enhancement of compensation.

7.Per contra, Mr.S.Arunkumar, learned counsel appearing for the second respondent/Insurance Company contended that the accident occurred in the year 1992 and the amounts awarded by the Tribunal is not meager at that time. The appellants are not entitled to any enhancement and prayed for dismissal of the appeal.

8.The appellants have claimed compensation for death of their son aged 9 years. The Tribunal considering the materials on record has awarded consolidated sum of Rs.20,000/- towards loss of income, Rs.10,000/- towards mental agony and Rs.2,000/- towards funeral expenses. The accident occurred in the year 1992. The Tribunal has passed the award on 30.03.1995. Considering the entire materials on record and pleadings, the Tribunal has awarded a total compensation of Rs.32,000/-, which is just compensation payable at that time. The appellants have not made out any case for enhancement of compensation.

6.Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The second respondent/Insurance Company is directed to deposit the award amount along with accrued 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, the appellants are permitted to withdraw their respective share of the award amount along with interest and cost, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

krk/vkr

To

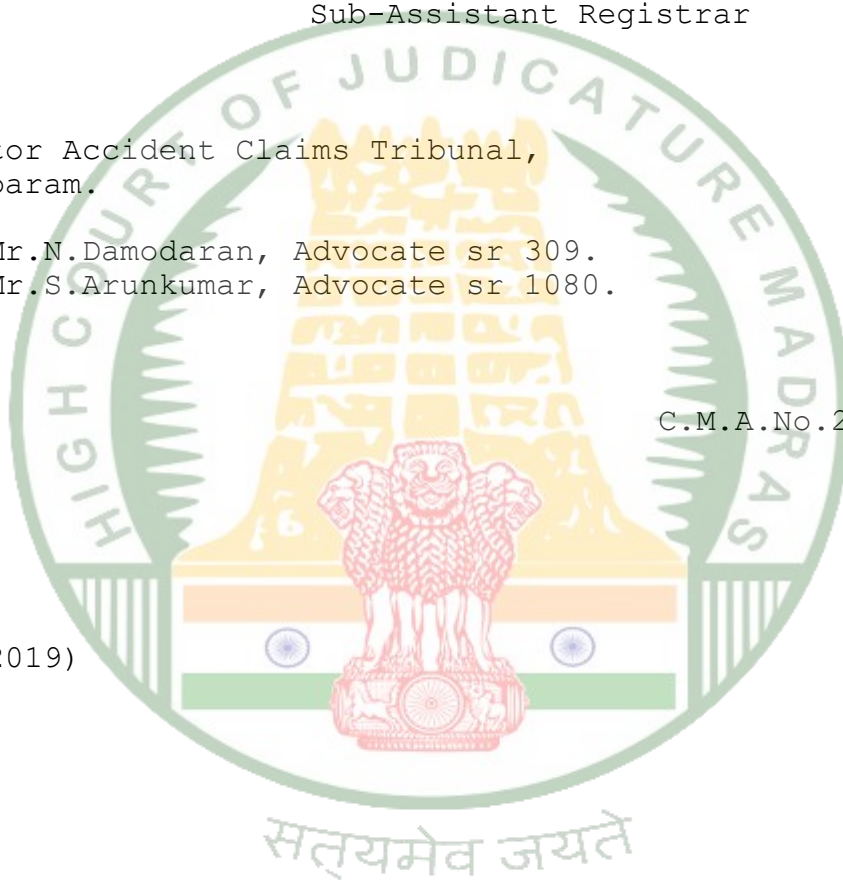
1. The Motor Accident Claims Tribunal,
Chidambaram.

+1 CC to Mr.N.Damodaran, Advocate sr 309.

+1 CC to Mr.S.Arunkumar, Advocate sr 1080.

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VD(CO)
SP(26/04/2019)



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