

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.144 of 2014

1. Prabavathi
 2. Shilpadevi
 3. Minor Guruprasath
 4. Minor Sinduja
- ...Appellants/Petitioners

(Minors rep by N.F.Mother prabavathi)

.Vs.

The Managing Director,
T.N.S.T.C.Ltd., Dharmapuri ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 25.11.2011 made in MACT.O.P.No.1503 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.M. Sriram

For Respondent : Mr.S.V.Vasantha Kumar

JUDGMENT

The appellants are the claimants in MCOP.No.1503 of 2006 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Krishnagiri. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award a compensation of Rs.15,00,000/- for the death of one Ravi Kumar, the husband of the first claimant and father of the claimants 2 to 4, in a road accident on 12.06.2005.

2.The case of the claimants is that on 12.06.2005, the deceased Ravikumar was riding his Hero Honda Splendor bike with one Suhasini as a pillion rider on Ralikoil - Krishnagiri Road. At about 12.40 p.m, a speeding bus bearing Registration No.TN-29-N-1263 belonging Tamil Nadu State Transport Corporation which came on the opposite direction, hit the Hero Honda bike, as a result of which, the claimants sustained fatal injuries and died on the spot.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the bus bearing Registration No. TN-29-N-1263 belonging to the respondent, and therefore, they are liable to pay compensation. The Tribunal after analyzing the evidence on record awarded a sum of Rs.8,55,000/- with 7.5% p.a as compensation to the claimants. Not being 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, seeking enhancement of compensation.

4. Mr. M. Sri Ram, learned counsel appearing for the appellants / claimants contended that the Tribunal has awarded only a sum of Rs.8,55,000/- as compensation, and that no amount was awarded towards future prospects of the deceased.

5. Per contra the learned counsel for the Transport Corporation would contend that the Tribunal after considering all the aspects of this case, has awarded just compensation and the same need not be disturbed at this stage.

6. In the instant case, as rightly pointed by the learned counsel for the claimants, the Tribunal did not award any amount towards "future prospects" of the deceased. The age of the deceased was 45 years on the date of the accident and hence the proper multiplier to be adopted in the instant case is 14 as per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Since no proof showing the income of the claimant is filed, the notional income is fixed at Rs.6,000/-, considering the year of accident.

7. As per the decision rendered in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601, 25% has to be added towards future prospectus, as the deceased was aged about 45 years and 1/4th is deducted towards personal expenses of the deceased as there were 4 persons depending on his income.

Calculation:

Notional Income	= Rs.6,000/-
25% Future Prospects	= Rs.1,500/-
1/4 th deducted towards personal expenses (Rs.7,500-Rs.1,875)	= Rs.5,625/-
Total = Rs.5,625x12x14	= Rs.9,45,000/-

8. 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 under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.9,45,000 /-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.10,15,000/-

9.Thus, the compensation awarded by the Tribunal is enhanced to Rs.10,15,000/- from Rs.8,55,000/-

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced to Rs.10,15,000/- from Rs.8,55,000/-

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv)The respondent, Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.10,15,000 /- (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.1503 of 2006 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Krishnagiri within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the claimants 1 and 2 are at liberty to withdraw the same as per the apportionment granted before the Tribunal after following due process of law. The share of the minor appellants 3 and 4 are directed to be deposited in any one of the Nationalised Bank till they attain majority. The 1st appellant being the mother of the appellants 3 and 4 is permitted to withdraw the accrued interest once in three months for the welfare of the minors.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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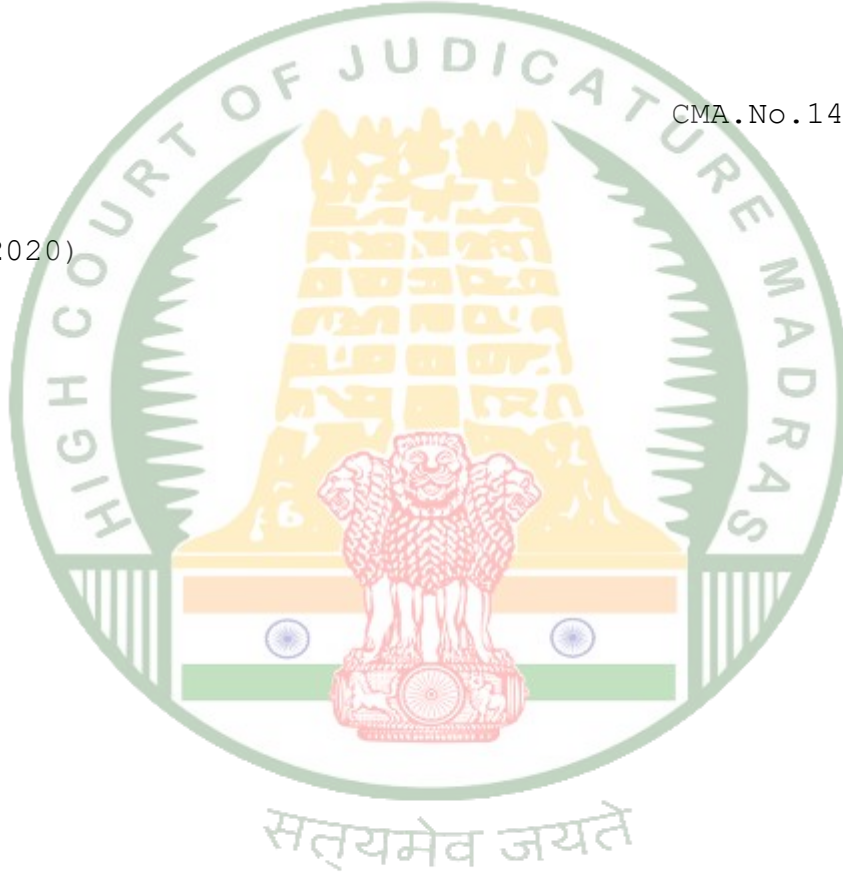
The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate, Krishnagiri.

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The Section Officer,
V.R. Section, High Court,
Madras.

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