

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.1861 of 2014

R. Moorthy (since died)

M.Sumathi Appellant/2nd Petitioner

Vs.

Metropolitan Transport Corporation Limited,
rep. by its Managing Director,
Pallavan Salai, Chennai-2. Respondent/Respondent

Prayer This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the orders dated 23.10.2013 passed in M.C.O.P.No.4348 of 2009 by the Special Subordinate Judge-I/ Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.S.Suresh

J U D G M E N T

The appellant is the II claimant in MCOP No.4348 of 2009 on the file of the Special Subordinate Judge-I/ Motor Accident Claims Tribunal, Chennai. The I claimant died even during the pendency of the claim petition before the Tribunal.

2. The claimants filed the above said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.20,00,000/- for the death of one Vignesh Moorthy, aged 18 years in a road accident that took place on 13.08.2009. The case of the claimants is that on 13.08.2009 at about 10.55 hours, the deceased was travelling as a passenger in a bus bearing registration No. TN-01-N-5022 belonging to the Metropolitan Transport Corporation from Perambur to Nungambakkam and that when the bus was nearing the junction of Village Road-College Road, Nungambakkam, the driver of the bus drove the

vehicle rashly and negligently, as a result of which, the deceased, who was standing inside the bus was thrown out through the front exit and the bus ran over him. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Metropolitan Transport Corporation was the cause of accident and hence they are liable to pay compensation to them.

3. The Special Subordinate Judge-I/ Motor Accident Claims Tribunal, Chennai, after analysing the evidence on record, awarded a compensation of Rs.7,00,000/- together with interest at the rate of 7.5% per annum to the claimants. Not satisfied with the quantum of compensation awarded by the Tribunal, the II claimant has filed the present appeal seeking enhancement of compensation.

4. Mr.K.Varadha Kamaraj learned counsel appearing for the appellant contended that the deceased was undergoing Steward training for air passengers and after completion of training, he would have definitely earned a sum of Rs.35,000/- to Rs.40,000/- per month and that the Tribunal had fixed the monthly income of the deceased only as Rs.3,500/- and therefore, he prayed for enhancement of compensation.

5. Per contra, Mr.K.S.Suresh, learned counsel appearing for the respondent contended that as per the well laid principles of law, which were in vogue at the time of passing of award, the Tribunal had awarded a compensation of Rs.7,00,000/- to the claimant and the same need not be disturbed at this stage.

6. The claimants are the parents of the deceased. During the pendency of the claim petition, the father died. The deceased was aged 18 years on the date of accident and he joined a training academy for Steward in Airoplanes after completing his 12th standard. In the decision in Kishan Gopal and another Vs. Lala and others reported in Civil Appeal No.7137 of 2013, the Honourable Supreme Court had fixed notional income of a boy aged 8 years, who died in an accident that took place in the year 1992, as Rs.30,000/- per annum. In the instant case, the deceased was aged 18 years. Therefore, his monthly income is fixed at Rs.15,000/-. Since the deceased died as a bachelor, 50% should be deducted towards his personal expenses. As per the decision of the Constitution Bench of the Hon'ble Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC), 40% should be added towards future prospects. The deceased was aged 18 years on the date of accident and therefore, proper multiplier to be adopted in the instant case is '18 ', as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Thus, loss of dependency is calculated as follows.

Notional income - Rs.15000

Add: 40% future prospects (15000+6000) - Rs.21,000

Deduct - 50% towards personal expenses - Rs.10,500

Proper multiplier - 18

Loss of dependency (10,500 x 12 x 18) - Rs.22,68,000

Apart from this amount, the claimants are also entitled to Rs.15,000/- Rs.15,000/- and Rs.40,000/- towards "loss of estate", "funeral expenses" and "loss of love and affection" respectively, as per the decision in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC) (cited supra). The revised compensation awarded under various heads is extracted hereunder.

Sl.No	Heads	Amount
1	Loss of dependency (10,500x12x18)	22,68,000
2	Loss of estate	15,000
3	Funeral expenses	15,000
4	Loss of love and affection	40,000
	Total	23,38,000

This amount would carry interest at the rate of 7.5% per annum from the date of claim petition.

7. In the result,

(i) The civil miscellaneous appeal is Allowed. No costs.

(ii) The compensation awarded by the tribunal is enhanced from Rs.7,00,000/- to Rs.23,38,000/-.

(iii) The appellant/claimant (M.Sumathi) is directed to pay necessary court fees for the enhanced compensation amount, within four weeks from the date of this order.

(iv) The respondent is directed to deposit the enhanced compensation amount of Rs.23,38,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit (less the amount already deposited by them), within 4 weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the appellant/ claimant is entitled to withdraw the same, after following due process of law.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

mst
To

1. Special Subordinate Judge-I,
Motor Accident Claims Tribunal, Chennai.

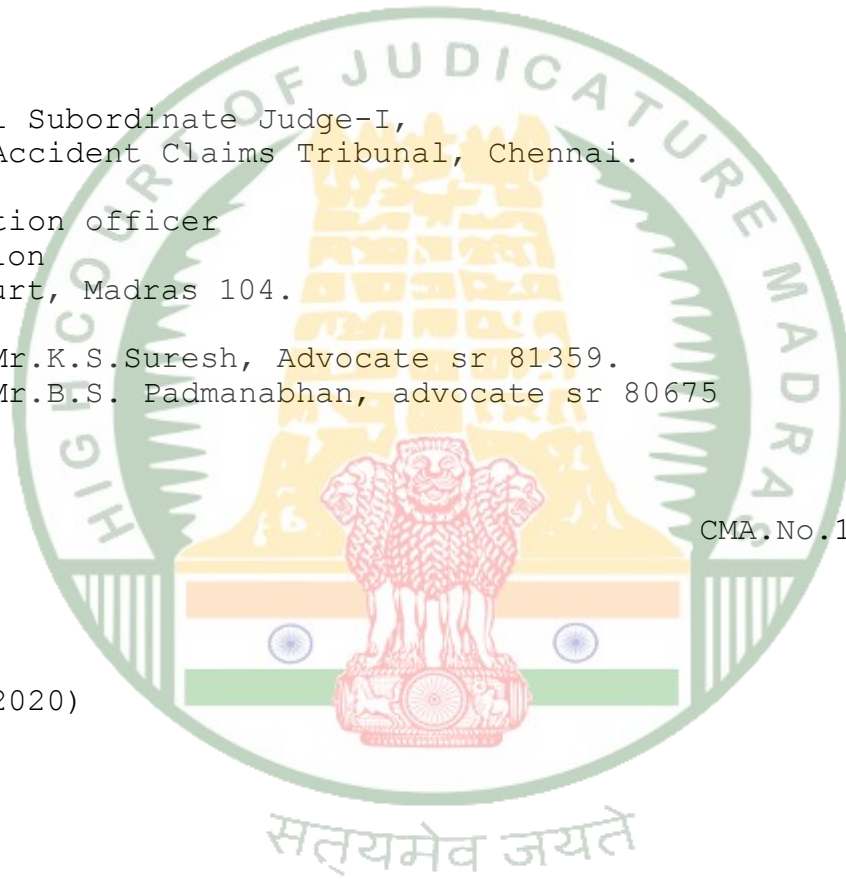
2.The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.K.S.Suresh, Advocate sr 81359.

+1 CC to Mr.B.S. Padmanabhan, advocate sr 80675

CMA.No.1861 of 2014

CA(CO)
SP(03/03/2020)



WEB COPY