

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1787 of 2009
(Through Video Conferencing)

1.K.Chellammal
2.K.Kaliyaperumal ... Appellants/Petitioners

Vs.

1.N.Pattabi

2.National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai - 600 002. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.01.2009 made in M.C.O.P.No.3925 of 2004, on the file of the Chief Small Causes Court (Motor Accidents Claims Tribunal, Chennai.

For appellants : Mr.R.Kalai Arasan

For 2nd respondent : Mr.S.Arun Kumar

R1 : Exparte

J U D G M E N T

With the consent of the learned counsel for the appellants and the learned counsel for the 2nd respondent, this Civil Miscellaneous Appeal is taken up for final disposal. The 1st respondent has remained exparte.

2. This Civil Miscellaneous Appeal has been filed by the claimants against the impugned Judgment and Decree dated 28.01.2009 passed by the Motor Accidents Claims Tribunal, (In the court of Small Causes, Chennai), Chennai, in M.C.O.P.No.3925 of 2004.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,80,000/- as compensation together with interest at 9% per annum from the date of numbering of the claim petition till the date of payment, to the appellants/claimants as against the amount of Rs.9,00,000/- claimed by

appellants/claimants.

4. Aggrieved by the said compensation awarded, the appellants/claimants seek for enhancement of compensation in this appeal. They are parents and the dependents of the deceased K.Munusamy who was aged about 22 years at the time of the death/accident.

5. The deceased K.Munusamy met with an accident on 08.02.2004 at about 01.30 hours when he was travelling as a cleaner in a Mini Lorry bearing registration No.TN-07-AZ-3960 belonging to the 1st respondent insured with the 2nd respondent Insurance Company. When it was proceeding from Hosur to Chennai along M.C.Road, near Udayarajapalayam, the driver of the lorry is said to have driven the insured lorry in a rash and negligent manner and had hit against a stationary Lorry bearing registration No.TN-23-Y-7277. The deceased K.Munusamy, who was travelling as a cleaner in the insured lorry, sustained multiple injuries and died on the spot.

6. Under these circumstances, the claim petition came to be filed for compensation by the appellants/claimants. After considering the evidence on record, the Tribunal has awarded the aforesaid compensation.

7. I have considered the arguments advanced by the learned counsel for the appellants/claimants. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

8. In my view, the compensation awarded by the Tribunal is not a just compensation. The Tribunal ought to have applied the correct multiplier, i.e. 18, considering the age of the deceased was 22 years at the time of his death. The Tribunal has also wrongly deducted only 1/3rd of the income towards the personal expenses of the deceased since was a bachelor. The Tribunal ought to have deducted 1/2nd towards personal expenses of the deceased as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

9. As per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 future prospectus is to be added at 40% to the income of the deceased. The other conventional heads are also re-quantified as follows:-

Heads	Award of the Tribunal	Re-quantified amount by this Court	Status (Enhanced or Reduced or Confirmed or granted)
Loss of Dependency	*Rs.2,40,000/-	# Rs.3,78,000/-	Enhanced
Loss of love and affection	Rs. 30,000/-	Rs. 30,000/-	Confirmed
Transport and Funeral Expenses	Rs. 10,000/-	Rs. 15,000/-	Enhanced
Loss of estate	-	Rs. 15,000/-	Granted
Total	Rs.2,80,000/-	Rs.4,38,000/-	Enhanced by another sum of Rs.1,58,000/-

* $2,500 \times 12 - 1/3^{\text{rd}} \times 12 = \text{Rs.}2,40,000/-$ by the Tribunal
$2,500 + 40\% \times 12 - 1/2^{\text{nd}} \times 18 = \text{Rs.}3,78,000/-$ by this Court

Therefore, the amount of compensation of Rs.2,80,000/- awarded by the Tribunal is enhanced to Rs.4,38,000/- by this Court and is rounded off to Rs.4,40,000/-

10. The 2nd respondent Insurance Company is therefore directed to deposit the difference amount amount of Rs.1,60,000/- (4,40,000 - 2,80,000) together with interest at 7.5% per annum from the date of numbering of the claim petition (i.e., 19.10.2004) till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment.

11. If the 2nd respondent Insurance Company has not deposited the amount of compensation awarded by the Tribunal, it is also directed to deposit the same together with interest and cost if any as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

12. On the enhanced amount of compensation of Rs.1,60,000/-, the appellants are permitted to withdraw the same equally together with interest at 7.5% per annum, by filing suitable application. The appellants/claimants are also permitted to withdraw the amount of compensation awarded by the Tribunal together with interest in the same proportion as directed by the Tribunal, less the amount already withdrawn if any, by filing

appropriate application.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To:-

1.The Chief Judge,
The Motor Accidents Claims Tribunal,
(In the court of Small Causes, Chennai),
Chennai.

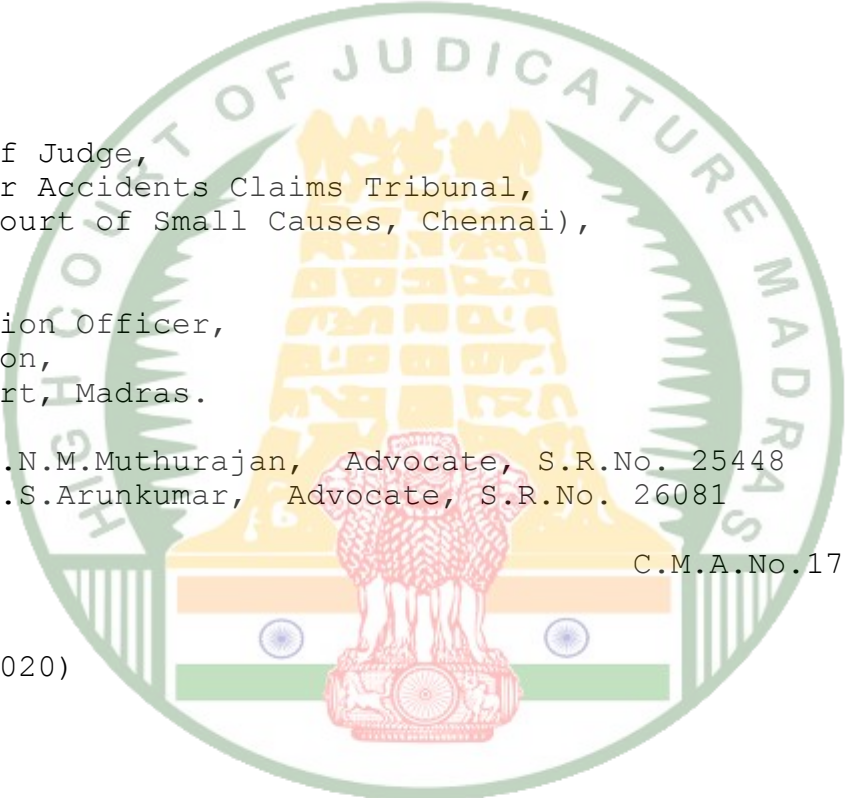
2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.N.M.Muthurajan, Advocate, S.R.No. 25448

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 26081

C.M.A.No.1787 of 2009

SR(CO)
GN(19/12/2020)



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