

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1497 of 2013

1. Mrs.M.Krishnaveni
2. M.Mohan

... Appellants/Petitioners

Vs.

Metropolitan Transport Corporation
[Chennai] Ltd., rep. by its
Managing Director, Pallavan Salai,
Chennai - 600 002.

... Respondent/Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 16.07.2012 made in MACT.O.P.No.1877 of 2010 on the file of the City Civil Court, XV Additional Judge (Motor Accidents Claims Tribunal), Chennai.

For Appellants : Mr.N.M.Muthurajan

For Respondent : Mr.K.S.Suresh

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 16.07.2012 made in MACT.O.P.No.1877 of 2010 on the file of the City Civil Court, XV Additional Judge (Motor Accidents Claims Tribunal), Chennai.

2. The case of the appellants is that on 13.05.2010 at about 8.30 a.m., their son, namely, M.Raghuvaran, was riding Motorcycle bearing Registration No.TN-10-W-3528 on Vadapalani to Virugambakkam Road from east to west direction. While he was proceeding opposite to Tamilnadu Co-operative Bank, Virugambakkam, the respondent's bus bearing Registration No.TN-01-N-5518 which came from behind in a rash and negligent manner dashed against the Motorcycle. Due to the impact, the Raghuvaran fell down and sustained severe head injuries and died on the spot. At the time of accident, he was aged 20 years, and before the accident, he was working as Office Assistant and was earning Rs.5,000/- per month. Since the respondent's driver is the cause for the alleged accident, the appellants filed a petition before the City Civil Court, XV

Additional Judge (Motor Accidents Claims Tribunal), Chennai, claiming Rs.9,00,000/- as compensation from the respondent.

3. Denying the allegations, the respondent transport corporation filed a counter affidavit stating that the accident had occurred only due to the negligent act of the deceased and not due to the negligent act of the respondent's driver. Further, the deceased was not having valid driving licence at the time of accident and the appellants have to strictly prove that the deceased possessed valid driving license at the time of the accident. Moreover, it has been stated that the alleged age, occupation and income of the deceased are not true and the amount of compensation claimed is highly excessive.

4. During the trial before the Tribunal, on the side of the appellants, the first appellant herself was examined as PW1 and marked certain documents as Exs.P1 to P8 and one Thiru.M.Sampath was examined as PW2. On the side of the respondent, one Thiru.Ravikumar was examined as RW1, but no document was marked.

5. The Learned XV Additional Judge (Motor Accidents Claims Tribunal), City Civil Court, Chennai, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the appellants and awarded Rs.4,45,000/- as compensation as follows :

S.No.	Description	Amount
1.	Loss of Dependency	3,90,000
2.	Funeral Expenses	5,000
3.	Loss of Love and Affection	50,000
	Total	4,45,000

6. Aggrieved by the award, the appellants/claimants have filed this appeal before this Court seeking for enhancement of the same.

7. On perusal of the award dated 16.07.2012 passed by the Learned XV Additional Judge (Motor Accidents Claims Tribunal), City Civil Court, Chennai, it is observed that the PW2 Mr.Sampath was examined as eye witness of the accident. He deposed that on 13.10.2010 at about 8.15 a.m., while he was riding his Motorcycle from Vadapalani to Virugambakkam at Arcot Road, a 20 years young man drove the Motorcycle bearing Registration No.TN-10-W-3528 in front of him, and at that time, the respondent's bus bearing Registration No.TN-01-N-5518 which came in a rash and negligent manner, hit behind the Motorcycle of the young man. Due to the impact, he died on the spot. The driver of the respondent Thiru.Ravikumar was also

examined before the Tribunal as RW1. He deposed that the accident had occurred only due to the rash and negligent driving of the deceased and there was no fault on the part of him. However, the RW1's evidence was not corroborated by any oral or documentary evidence, but the PW2's evidence was corroborated with PW1 and Ex.P1 copy of the FIR, and therefore, the Tribunal has come to the conclusion that the respondent's driver is the cause for the alleged accident.

8. It is further observed that the appellants in order to prove the income of the deceased marked the salary slip of the deceased as Ex.P8, and the Tribunal only after perusal of the same has fixed the income of the deceased as Rs.5,000/- per month, which comes 60,000/- per year. Since the deceased was a bachelor at the time of accident, the Tribunal has deducted 50% of the income for personal expenses of the deceased, but the multiplier adopted by the Tribunal is found to be wrong. As per the case reported in 2009 ACJ 1298 [Sarla Verma and Others vs Delhi Transport Corporation and Another], the multiplier for a person aged 20 is 18. The Tribunal has wrongly taken the 13 multiplier and awarded Rs.3,90,000/- towards Loss of Dependency and this Court is inclined to modify the same. The sum of Rs.50,000/- awarded towards Loss of Love and Affection is found to be excessive and the same has to be reduced, and the sum of Rs.5,000/- awarded towards Funeral Expenses is hereby confirmed.

9. In view of the above observations made by this Court, the compensation awarded by the Tribunal is modified as follows :

Monthly Income	5,000
Annual Income (5000 x 12)	60,000
Deductions of 50% for personal expenses of the deceased (60,000 - 30,000 X 18)	5,40,000
Funeral Expenses	5,000
Loss of Love and Affection	30,000

Total	5,75,000

10. Accordingly, the respondent transport corporation is directed to deposit the said amount of Rs.5,75,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellants/claimants are permitted to withdraw the same as per the apportionment made by the Tribunal by filing a formal petition before the concerned Court, less the amount if any, already withdrawn.

11. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

raja

To

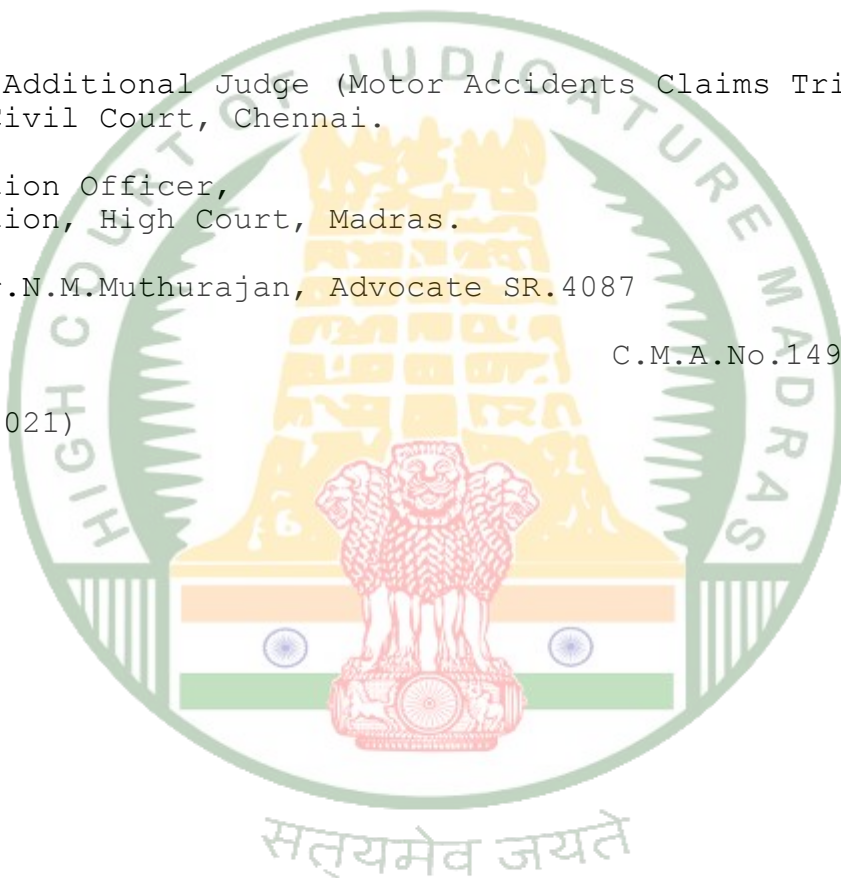
1. The XV Additional Judge (Motor Accidents Claims Tribunal),
City Civil Court, Chennai.

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

+2cc to Mr.N.M.Muthurajan, Advocate SR.4087

C.M.A.No.1497 of 2013

NRJK (CO)
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