

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.14.08.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1611 of 2013

1.S.Sasi

2.C.Santhana Krishanan

... Appellants/Petitioners

vs.

1.Mohammed Dasgar

2.Reliance General Insurance Co. Ltd.,
Heavitree, Unit No.1, 3rd Floor,
No.23, Spur Tank Road, Chetpet,
Chennai.

... Respondents/Respondents

(The 1st Respondent exparte in
lower court, hence notice may be
dispensed with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 31.01.2013 made in MCOP.No.4198 of 2008 on the file of the Motor Accident Claims Tribunal, (Chief Small Causes Court), Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondent 2 : Mr.S.Arun Kumar
R1-Exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 31.01.2013 passed by the Motor Accident Claims Tribunal (Chief Small Causes Court, Chennai) in MCOP.No.4198 of 2008.

2. The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has filed this Appeal seeking for enhancement.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award amount (Rs.)
Loss of pecuniary benefits	4,91,400/- (4500 + 30% = 5850 - 50% = 2925 x 12 x 14)
Loss of love and affection	20,000/-
Funeral Expenses	10,000/-
Total	5,21,400/-

4. The deceased S.Dinesh was 19 years old student studying B.Com., final year, when he died on 17.08.2008 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent.

5. The adverse finding of negligence on the part of the driver of the insured vehicle has now attained finality since no appeal has been filed by the respondent transport corporation aggrieved by the said findings.

6. The only contention that arises for consideration is whether the Appellants are entitled for enhancement of compensation.

7. In the claim petition, the Appellants who are the dependents of the deceased S.Dinesh have claimed that apart from being a student, the deceased was self employed as a data entry operator earning a monthly income of Rs.5,000/-.

8. Before the Tribunal, the Appellants/claimants have filed seven documents which were marked as Ex.P1 to Ex.P7 and two witnesses were examined on their side namely Sasi, the mother of the deceased as PW1 and D.Anantha Kumar, an eyewitness to the accident. On the side of the respondents, neither any document was filed nor any witness examined.

9. The Tribunal has assessed the notional monthly income of the deceased at the time of the accident at Rs.4,500/-. The year of the accident is 2008 and considering the same, the assessment of notional monthly income of the deceased by the Tribunal is a correct assessment.

10. The Appellant was 19 years old at the time of the accident which is established through Ex.P7-Driving licence. Being a bachelor, the Tribunal has rightly deducted 50% towards personal expenses of the deceased.

11. The Tribunal has also awarded only 30% towards loss of future prospects and has also applied the wrong multiplier of 14

instead of 18. Being a self employed person, the Tribunal ought to have awarded 40% towards loss of future prospects to the Appellants. Accordingly, this Court awards 40% towards loss of future prospects and also modifies the multiplier to 18 instead of 14 erroneously applied by the Tribunal.

12. However, the Tribunal has awarded a meagre compensation towards conventional heads namely loss of love and affection and Funeral expenses. The Tribunal has awarded only a sum of Rs.20,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses which is low and is not in accordance with settled practice. Accordingly, this Court enhances the compensation payable to the Appellants towards loss of love and affection to Rs.40,000/- instead of Rs.20,000/- awarded by the Tribunal and also enhances the compensation towards funeral expenses to Rs.15,000/- from Rs.10,000/- awarded by the Tribunal.

13. The Tribunal has not awarded any compensation towards loss of estate to the Appellants/claimants which they are legally entitled to as per the settled position of law. Accordingly, this Court awards Rs.15,000/- towards loss of estate to the Appellants/claimants.

14. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced to Rs.7,50,400/- from Rs.5,21,400/- as detailed hereunder:

Heads	Amount Awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of pecuniary benefits	4,91,400/- (4500 + 30% = 5850 - 50% = 2925 x 12 x 14)	6,80,400/- (4500 + 40% = 6300 - 50% = 3150 x 12 x 18)
Loss of love and affection	20,000/-	40,000/-
Funeral Expenses	10,000/-	15,000/-
Loss of estate	--	15,000/-
Total	5,21,400/-	7,50,400/-

15. In the result, this appeal is partly allowed by modifying the award amount from Rs.5,21,400/- to Rs.7,50,400. However, the rate of interest fixed by the Tribunal is confirmed by this Court. The second respondent insurance company is directed to deposit the modified award amount i.e., Rs.7,50,400/- after deducting the amount already deposited if any, along with interest from the date of claim till the date of

deposit to the credit of MCOP.No.4198 of 2008 within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest to the bank accounts of the Appellants/claimants as per the apportionment made by the Tribunal through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

nl

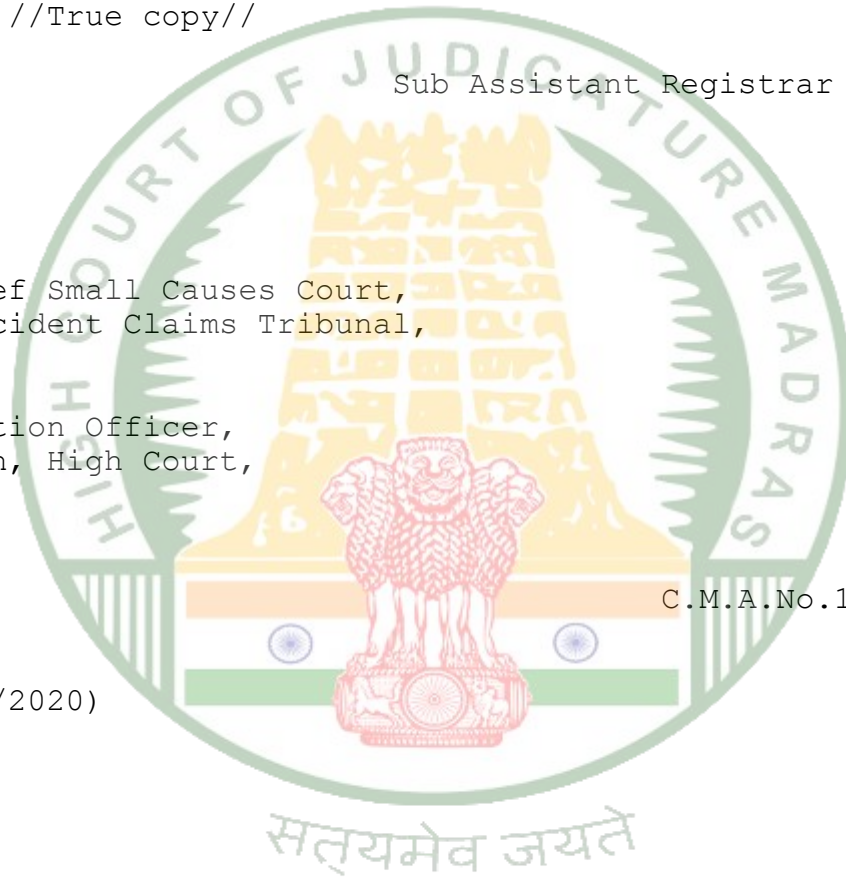
To

1.The Chief Small Causes Court,
Motor Accident Claims Tribunal,
Chennai.

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

C.M.A.No.1611 of 2013

RJI (CO)
GMY (07/09/2020)



WEB COPY