

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1765 of 2012

1.A.Pushpa
2.A.Saravanan (minor)
3.A.Sangeetha (Minor)
4.M.Kuppammal
(Minors are represented by their mother
and next father the first petitioner)

Vs.

1.V.V.Jayakumar
2.The New India Assurance Co.Ltd.,
No.45, Moore Street, 5th Floor,
Chennai- 600 001.Respondents/ Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.01.2012 made in M.A.C.T.O.P.No.1896 of 2006 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.N.M.Muthurajan

For R1 सत्यमेव जयते : Ex-parte

For R2 : Mr.S.Jayasankar

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JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellants seeking enhancement of compensation granted by the Tribunal in the award dated 31.01.2012 made in M.A.C.T.O.P.No.1896 of 2006 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellants are the claimants in M.A.C.T.O.P.No.1896 of 2006 on the file of Motor Accident Claims Tribunal, II Small Causes Court, Chennai. They had filed the said claim petition claiming a sum of Rs.12,00,000/- as compensation for the injuries sustained by M.Arumugham, who died in the accident that took place on 22.12.2005.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the motor cycle belonging to the first respondent, insured with the second respondent and directed the respondents jointly and severally to pay a sum of Rs.6,60,000/- as compensation to the appellants. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

4.Heard Mr.N.M.Muthurajan, learned counsel for the appellants and Mr.S.Jayasankar, learned counsel appearing for the second respondent and perused the materials available on record.

5.A perusal of the records shows that the appellants/claimants husband/deceased had sustained multiple injuries and died during the course of the treatment. It is seen that the deceased was working as a Security Supervisor in R.R.Builders, Chennai and earned Rs.8,000/- per month. In this regard, the appellants have produced Ex.P7 to show the monthly income. Ex.P7 has not been proved as required by law. The appellants failed to examine the employer or any other responsible officer to prove Ex.P7. Hence, the Tribunal has fixed a sum of Rs.4,500/- towards notional monthly income. On the basis of the ruling of the Hon'ble Supreme Court reported in 2011 ACJ (2436) in Ramachandrappa Vs. Manager, Royal Sundaram Alliance Insurance Co.Ltd., for the age group of 36 to 40 years, the multiplier as per the Second Schedule of the M.V.Act on the basis of Sarala Varma's case to be adopted is 15. As per the above said details, the following formula emerges. The monthly income of the deceased is Rs.4,500/-. After deducting 1/3rd amount of Rs.1,500/- towards his personal expenses on the basis of the Sarala Varma's Case, since dependency is 6 persons, his contribution to the family comes to Rs.3,000/-. Therefore, the pecuniary loss to the family is Rs.3,000/- per month. (Rs.3000 X 12 X 15 =Rs.5,40,000/-). The Tribunal has rightly awarded a sum of Rs.5,40,000/- towards Pecuniary loss, which is hereby confirmed. Further, the deceased is the husband of the first petitioner, son of the fourth petitioner and father of minor appellants. The deceased has lost his life at the age of 40

years. The same reveals that the appellants were legal heirs of the deceased. Hence, considering the circumstances, a sum of Rs.25,000/- each can be awarded for love and affection, which comes to Rs.1,00,000/- and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.10,000/- towards loss of Consortium. Considering the age of the first petitioner, who is the wife of the deceased, the same is enhanced to Rs.30,000/-. The Tribunal has not awarded any amount towards damages to clothes and articles. Hence, this Court awards a sum of Rs.2,000/- for the same. The award passed by the Tribunal under other heads are confirmed. The award passed by this Court is extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary Loss	5,40,000/-	5,40,000/-	confirmed
2.	Loss of Love and Affection	1,00,000/-	1,00,000/-	confirmed
3.	Loss of Consortium	10,000/-	30,000/-	enhanced
4.	Funeral Expenses	10,000/-	10,000/-	confirmed
5.	Damages to Clothes and articles	---	2,000/-	granted
	Total	Rs.6,60,000/-	Rs.6,82,000/-	enhanced by Rs.22,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,60,000/- is hereby enhanced to Rs.6,82,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent is directed to deposit the enhanced award amount now determined by this Court along with interest and costs on behalf of the first respondent, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. The appellants 1 to 3 are entitled to get Rs.2,00,000/- each and the fourth petitioner is entitled to get Rs.82,000/- The appellants/claimants are permitted to withdraw the enhanced

award amount deposited by the second respondent along with interest and costs, less the amount already withdrawn, if any.
No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

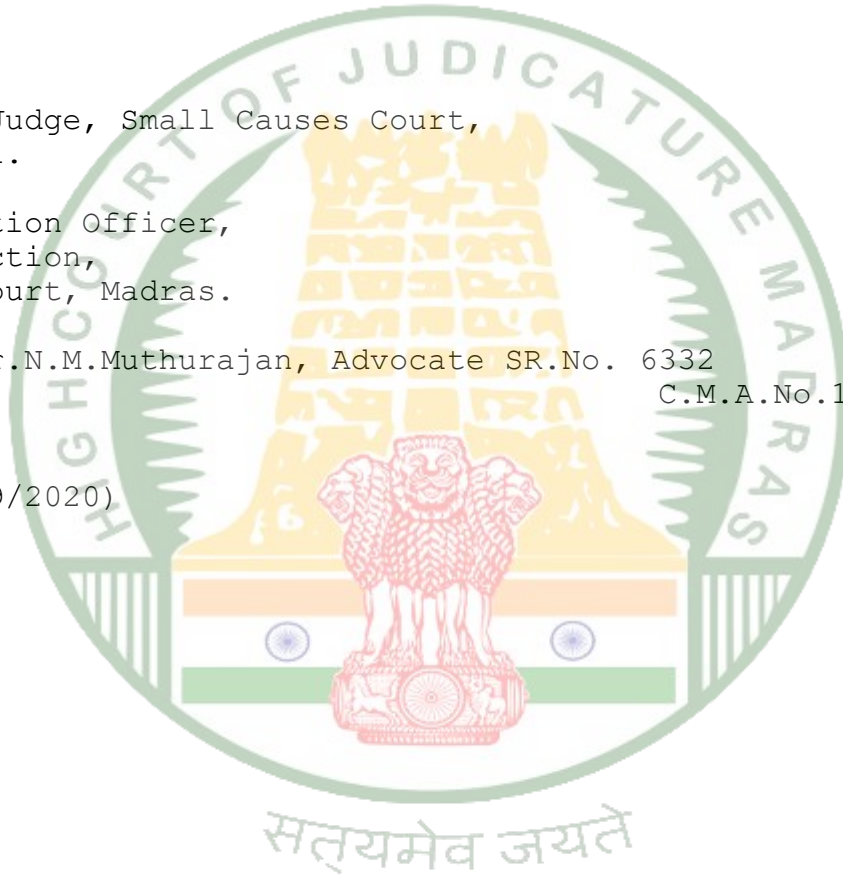
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To

1.The II Judge, Small Causes Court,
Chennai.

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

+lcc to Mr.N.M.Muthurajan, Advocate SR.No. 6332
C.M.A.No.1765 of 2012

nmi co
A.SK(03/09/2020)



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