

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1911 of 2013

1.Pandian

2.Lilli

... Appellants/Claimants

...Vs...

1.G.Thanga Ravi

2. IFFCO-TOKYO General
Insurance Company Limited
Sahas Embassy
No.145/131, Nelson Manickam Road
Metha Nagar
Chennai.

P.Pushpa (Died)

3.Bajaj Allianz General Insurance
Company Limited
Chennai-102

4. Pugalendiran

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the amount awarded in M.C.O.P No.264 of 2008 dated 28.06.2012 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur.

For Appellants : Mr.P.Mani

For Respondents : Mr.N.Vjayaraghavan - R2 & R3
R1 & R4- 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 28.06.2012 passed by the Motor Accident Claims Tribunal (Principal District Judge), Perambalur in M.C.O.P No.264 of 2008.

2. The Appellants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award have preferred this appeal seeking enhancement.

3. The Tribunal under the impugned award has awarded a compensation of Rs.50,000/- to the Appellants/claimants for the injuries sustained by him on 12.04.2007 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent.

4. The Appellants are the legal representatives of the deceased minor Poorniswaran, a 5 month old child who died as a result of an accident caused by a vehicle owned by the 1st respondent and insured with the 2nd respondent. Based on the evidence available on record, the Tribunal has mulcted the entire liability on the respondent Nos.1 and 2 in this appeal.

5. The only question that arises for consideration in this appeal is whether the compensation awarded by the Tribunal needs to be enhanced or not?

6. The Tribunal under the impugned award has awarded only a sum of Rs.50,000/- as compensation to the Appellants who are the parents of the deceased minor Poorniswaran.

7. In the decision of the Hon'ble Supreme Court in the case of R.K.Malik Vs. Kiran Pal reported in 2009 ACJ 1924, in a fatal accident claim where the victim was a minor aged 3 years, the Hon'ble Supreme Court had awarded a sum of Rs.2,25,000/- as compensation to the claimants. Therefore, this Court will have to necessarily enhance the compensation to the claimants for the death of their minor child who was hardly 5 months old at the time of the accident. The Tribunal has awarded only a sum of Rs.50,000/- as compensation to the claimants which is too low. In accordance with the Hon'ble Supreme Court decision, the compensation will have to be necessarily enhanced. Accordingly, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.50,000/- to Rs.2,25,000/- to the Appellants/claimants, applying the same yardstick of the Hon'ble Supreme Court as referred to supra.

Conclusion:

8. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The 2nd Respondent Insurance Company is directed to deposit the enhanced award amount i.e, Rs.2,25,000/- along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.264 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/claimant in the same ratio apportioned by the Tribunal through RTGS within a period of two weeks thereafter. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

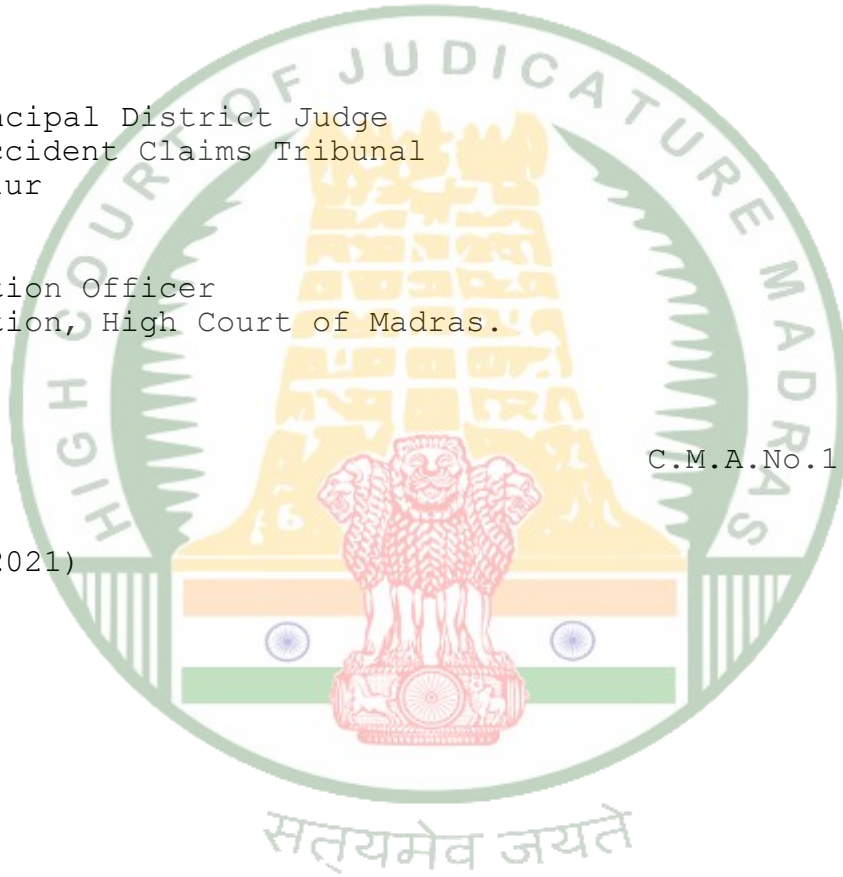
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To

1.The Principal District Judge
Motor Accident Claims Tribunal
Perambalur

Copy to
The Section Officer
V.R.Section, High Court of Madras.

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