

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.08.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3201 of 2011

1. A.P.Murugan

2. Selli

... Appellants/Petitioner

vs.

1.S.Tamizharasi

2. The Branch Manager,
Oriental Insurance Company Limited,
Branch Office,
No.25-C, Arunagiri Complex,
Bye-pass Road,
Hosur-635 109.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 12.11.2010 in MCOP.No.651 of 2008 passed by the Motor Accident Claims Tribunal (Principal District Judge), Krishnagiri.

For Appellants : Mr.Mukund R.Pandiyan

For 2nd Respondent : Mrs.R.Sreevidhya for R2

R1 : Exparte in Tribunal

JUDGMENT

[This Appeal was taken up for hearing through Video Conferencing]

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 12.11.2010 passed by the Motor Accident Claims Tribunal (Principal District Judge), Krishnagiri in MCOP.No.651 of 2008.

2. A person by name Tamilarasi (Minor), died on 27.06.2007 as a result of the accident caused by a vehicle owned by the first respondent and insured with the second respondent.

3. The appellants are the dependents (parents) of the deceased minor. They have preferred a claim petition before

the Motor Accidents Claims Tribunal (Principal District Judge) Krishnagiri in MCOP No.651 of 2008, seeking a compensation of Rs.8,00,000/- for the death of minor Tamilarasi.

4. The Motor Accidents Claims Tribunal, under the impugned award dated 12.11.2010 in MCOP No.651 of 2008 directed the respondents to pay a compensation of a sum of Rs.3,20,000/- to the claimants, together with interest and costs, as detailed hereunder:-

Sl.No.	Heads	Award
1	Pecuniary Loss	1,50,000/-
2	Non-pecuniary loss	75,000/-
3	Loss of future prospects	75,000/-
4	Loss of love and affection	15,000/-
5	Funeral expenses	5,000/-
	Total	3,20,000/-

5. Before the Tribunal, the claimants have filed six documents, which were marked as Ex.A1 to Ex.A6 and two witnesses were examined viz., PW1- the father of the deceased, who is the first appellant herein and PW2 - G.Veeravel, an eyewitness to the accident. On the side of the respondents, neither any witness was examined nor any document filed before the Tribunal.

6. The appellants/claimants, unsatisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal, seeking enhancement.

7. Heard Mr.Mukund R.Pandiyan, learned counsel for the Appellants / claimants and Mrs.R.Sreevidhya, learned counsel for the Second Respondent / Insurance Company. The first respondent has remained exparte both before the Tribunal as well as this Court.

8. The age of the deceased was proved before the Tribunal through her school study certificate, which was marked as Ex.A5. The respondents have also not disputed the accident. The adverse findings of negligence on the part of the driver of the insured vehicle given by the Tribunal has also attained finality, since no appeal has been filed by the respondents.

9. It is always difficult to accurately assess the compensation in case the deceased is a minor, as in the instant case. The Tribunal has awarded Rs.3,20,000/- as compensation to

the appellants/claimants, who are the parents of the deceased minor girl, who died at the age of 15 years.

10. As per the Constitutional bench judgment of the Honourable Supreme Court in the case of Kishan Gopal and another Vs. Lala and others reported in 2014 (1) SCC 244, the Hon'ble Supreme court had an occasion to deal with a compensation claim involving a minor, who died in a motor accident. The Hon'ble Supreme Court in that decision has awarded a total compensation of Rs.5,00,000/- to the dependents of the deceased minor who was fifteen years old at the time of the accident. Applying the same yardstick, this Court also awards a total compensation of Rs.5,00,000/- to the appellants, who are the dependents of the deceased minor, a non earning person, aged 15 years at the time of the accident, in the following manner:-

Heads	Modified Award Amount (Rs.)
Monthly income	5000
Deduction	$\frac{1}{2}$
Multiplier	15
Loss of dependency	4,50,000/-
Funeral Expenses	15,000/-
Loss of Estate	15,000/-
Loss of Love and affection	20,000/-
Total	5,00,000/-

11. The pecuniary loss, loss of love and affection, loss of estate and funeral expenses have been modified by this Court in the above mentioned manner.

12. For the foregoing reasons, the compensation awarded by the Tribunal, under the impugned award, is enhanced to Rs.5,00,000/- from Rs.3,20,000/- assessed by the Tribunal. Out of the said amount, the first appellant shall be entitled to get a sum of Rs.2,00,000/- and the second appellant shall be entitled to get a sum of Rs.3,00,000/- with accrued interest thereon.

Conclusion:

13. In the result, the appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second respondent insurance Company is directed to deposit the modified award amount i.e, Rs.5,00,000/- along with interest and costs, after deducting the amount, if

any, already deposited, to the credit of MCOP.No.651 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 share of the respective Appellants as per the distribution given by this Court in this Judgment through RTGS, within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

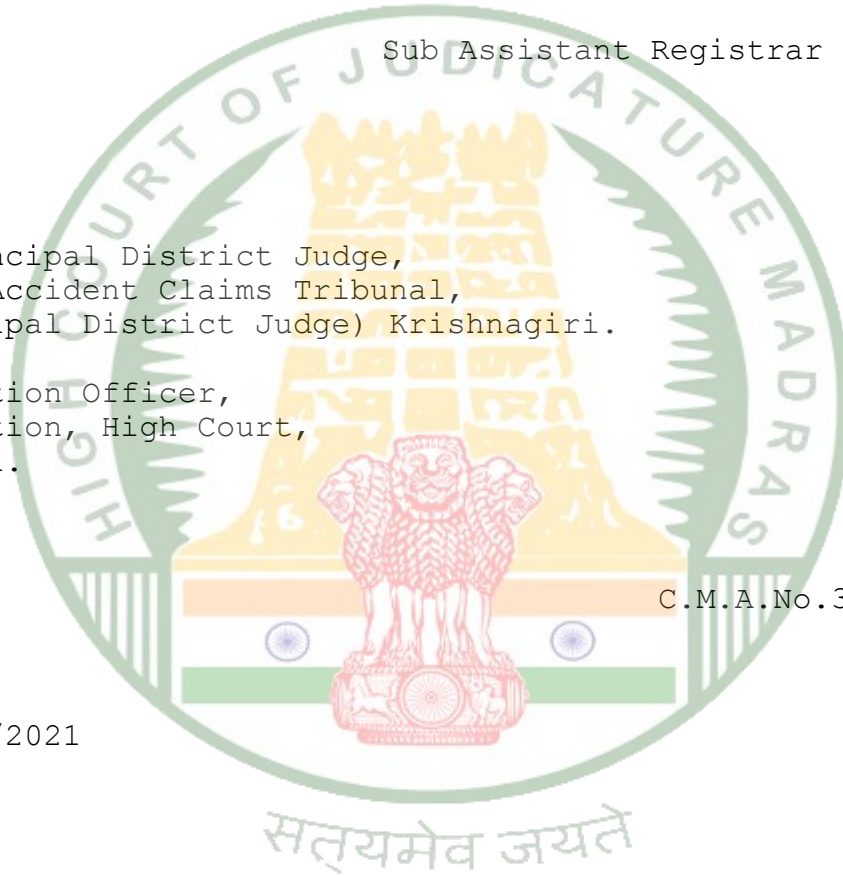
rli

To

- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
(Principal District Judge) Krishnagiri.
- 2.The Section Officer,
VR Section, High Court,
Chennai.

C.M.A.No.3201 of 2011

br[co]
srg 29/04/2021



WEB COPY