

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.149 of 2016

1.V.Sasikala

2.V.Balaji

3.V.Jeevitha

(Minors)

..Appellants

(Rep by her mother and natural and guardian and SMT.V.Sasikala)

Vs.

1.P.Ramachandran

2.National Insurance Company Limited,

Third Party Motor Cell,

No.751, Anna Salai,

Chennai.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 18.09.2014 made in M.C.O.P.No.2741 of 2012, on the file of the Motor Vehicle Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.K.Suryanarayanan

For Respondents : Mr.R.Ravichandran for R2.

J U D G M E N T

The award of compensation is sought to be enhanced by the claimants in the present appeal.

2. The Motor Accident Claims Tribunal granted a sum of Rs.5,63,000/- and the learned counsel appearing on behalf of the appellants mainly contended that the deceased was aged about 47 years and he was a Carpenter Contractor and died leaving behind his wife, son and daughter. The claim petition was filed seeking a compensation of Rs.20,00,000/- and the claimants 2 and 3 are minors. It is contended that the deceased was the sole breadwinner of the family and he has been contributing for the welfare of the family. On account of his sudden death, the family was unable to run.

3. The learned counsel appearing on behalf of the appellants further states that the factum regarding the accident was established by the claimants. The liability was also fixed on the Insurance Company. The deceased being a

contractor and was in skilled job, the fixation of Rs.4,500/- as monthly income is certainly not in consonance with the actual salary to be paid for a Carpenter Contractor, during the relevant point of time. The job of contractor is skilled work. Thus, the Tribunal ought to have adopted a reasonable approach in fixing the monthly income of the deceased. Contrarily, Rs.4,500/- fixed by the tribunal is inadequate and therefore, the compensation awarded is to be enhanced.

4. The learned counsel appearing on behalf of the Insurance Company though reiterated that the Tribunal has assessed the compensation properly, is unable to countenance with the question raised on behalf of the appellants regarding fixation of monthly income of Rs.4,500/- for Carpenter.

5. Under these circumstances, this Court is of the considered opinion that the compensation awarded by the Tribunal is inadequate which requires enhancement. Thus, the monthly income of the deceased is to be fixed as Rs.7,500/- and the multiplier "13" is to be applied. Therefore, the total compensation payable for loss of income is Rs.11,70,000/-. Thus, the quantum of compensation is re-scheduled hereunder:

Loss of income	:	Rs.11,70,000/-
Funeral Expenses	:	Rs.15,000/-
Consortium	:	Rs.40,000/-
Loss of love and affection	:	Rs.1,00,000/-
Loss of Estate	:	Rs.15,000/-
Total	:	Rs.13,40,000/-

6. Thus, the total compensation payable to the appellants/claimants is Rs.13,40,000/-. The second respondent/Insurance Company is directed to deposit the entire award amount including enhanced amount along with interest at the rate of 7.5% per annum by deducting the amount already deposited within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are permitted to withdraw the amount by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. Accordingly, the judgment and decree dated 18.09.2014 made in M.C.O.P.No.2741 of 2012 is set aside and the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

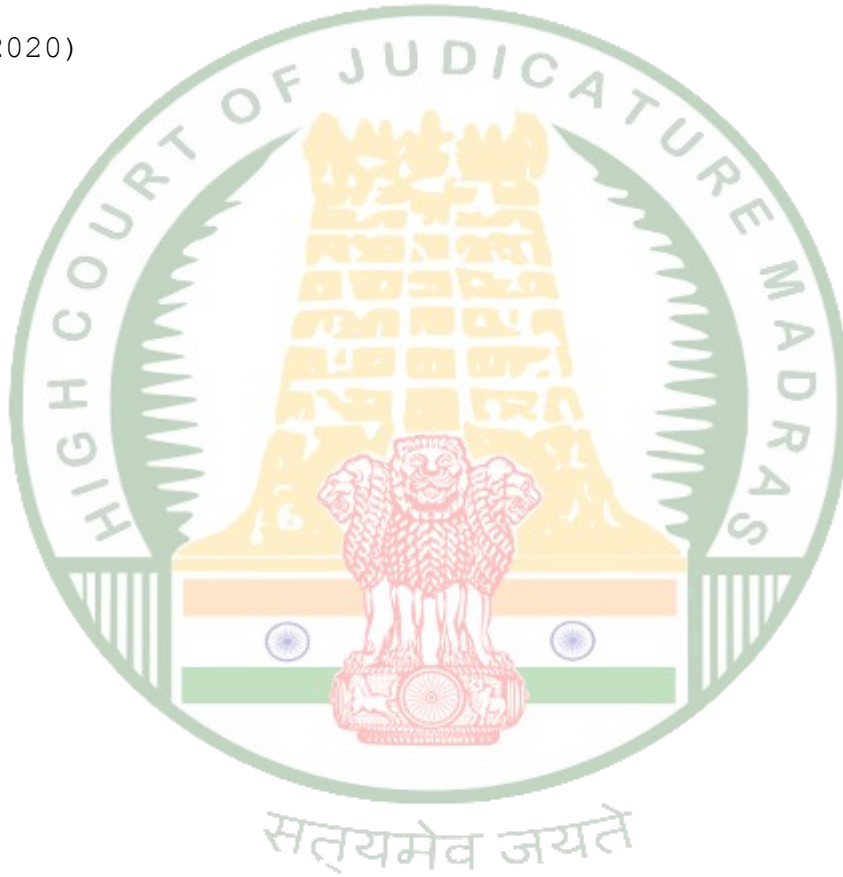
The Chief Judge,
Motor Vehicle Accidents Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No. 22010

+1cc to Mr.R.Ravichandran, Advocate, S.R.No. 22088

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