

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.2987 OF 2012

(THROUGH VIDEO CONFERENCING)

1.T.Rajeswari

2.K.Thangaraj

.... Appellants/Petitioners

Vs.

Metropolitan Transport Corpn. Ltd.,
(Chennai Division), rep. by its
Managing Director, Pallvan Salai.
Chennai - 600 002.

.... Respondent/Respondent

Prayer:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.06.2012 made in M.C.O.P.No.2868 of 2006, on the file of the II Judge, Small Causes Court (Motor Accidents Claims Tribunal) Chennai.

For appellants : Mr.R.Kalai Arasan

For respondent : Mr.S.S.Swaminathan

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J U D G M E N T

The claimants are the appellants in this appeal. They have filed this Civil Miscellaneous Appeal for enhancement of compensation awarded to them by the impugned Judgment and Decree dated 06.06.2012 by the Motor Accident Claims Tribunal, Chennai (II Small Causes Court, Chennai) in M.C.O.P.No.2868 of 2006.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.7,17,000/- as compensation to the appellants/claimants. The appellants are seeking for enhancement of compensation. There are no disputes on the facts regarding the manner in which the accident took place in which the son of the appellants lost his life at a very tender age of 22 years on 10.04.2006. He was hit from behind by a bus belonging to the respondent-State Transport Corporation and later died in the hospital.

3. In the claim petition, the appellants had stated that their deceased son was earning a sum of Rs.6,500/- p.a. and was working as a Sales Executive with M/s. Jai Enterprises Auto Mobile Dealers, Gandhinagar, Adayar Chennai.

4. They had marked Ex.P.7-salary certificate and examined an employer as PW3. The Tribunal awarded the aforesaid compensation and has applied the 13 multiplier by considering the age of the mother of the deceased and arrived at the pecuniary loss while awarding the aforesaid compensation. It is further submitted that the Tribunal has not awarded future prospects.

5. Per contra, the learned counsel for the respondent State Transport Corporation submits that the compensation awarded was a just compensation. It is submitted that even though the Tribunal had wrongly applied the multiplier by considering the age of the mother, the Tribunal has awarded a sum of Rs.2 lakhs towards filial consortium in excess of the decision in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680. It is further submitted that the Tribunal ought to have considered the income of the deceased as Rs.4500/-.

6. I have considered the arguments advanced by the learned counsel for the appellants and the respondent. I have also perused the evidence on record.

7. The income of the deceased has been correctly considered as Rs.6,500/-. Since the impugned judgment and decree was passed, lot of clarity has emerged from the rulings of the Hon'ble Supreme Court in the case of Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 12, National Insurance Co., Ltd., Vs. Pranay Sethi & Others, (2017) 16 SCC 680 and by the decision of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130, applied the correct multiplier of 18 and not 13. Similarly, the Tribunal ought to have awarded compensation

towards future prospects. Thus the compensation to be awarded to the appellants would be Rs.10,92,800/- as detailed below:-

Head and Calculation	Re-quantified amount of Compensation by this Court
Loss of dependency i) Loss of income : Rs.6,500/- ii) Add 40% future prospects (6,500x40/100) : Rs.2,600/- : Rs.9,100/- iii) less 50% personal expenses (9,100x50/100) : Rs.4,550/- iv) Loss of annual income (4,550 x 12) : Rs.54,600/- v) Multiplier 18 (54,600 x 18) : Rs.9,82,800/-	Rs.9,82,800/-
Loss of Filial Consortium (40,000 x 2)	Rs. 80,000/-
Loss of Estate	Rs. 15,000/-
Transport and Funeral Expenses	Rs. 15,000/-
Total	Rs.10,92,800/-

The enhanced compensation of Rs.10,92,800/- is rounded off to Rs.10,93,000/-.

8. The respondent is directed to deposit the enhanced amount of compensation of Rs.3,76,000/- (10,93,000 - 7,17,000) together with interest at 7.5% p.a from the date the claim petition till the date of deposit, less if any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment. If the respondent has not deposited the entire amount of compensation awarded by the Tribunal, it is also directed to deposit the same together with interest and proportionate costs as directed by the Tribunal, less if any amount already deposited, within the aforesaid period.

9. On such deposits, the appellants are permitted to withdraw the same together with interest thereon equally, less if any already withdrawn, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

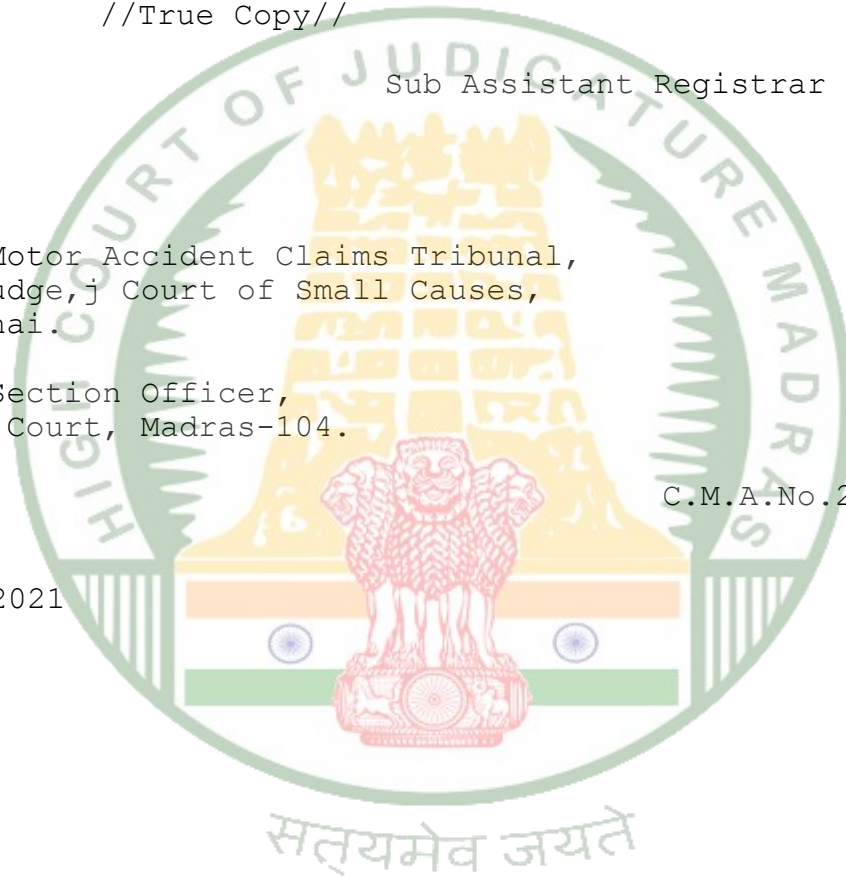
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To:-

1. The Motor Accident Claims Tribunal,
II Judge, Court of Small Causes,
Chennai.
2. The Section Officer,
High Court, Madras-104.

C.M.A.No.2987 of 2012

MR(CO)
CS/01/02/2021



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