

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2746 of 2013

1. K.Radha
 2. K.Meena
 3. V.Punitha
 4. Thangammal
- Appellants/ Petitioners

Vs.

1. S.Murali
 2. The New India Assurance Company Limited,
East Coast Chambers,
No.92, GN Chetty Road,
Chennai - 600 017.
- Respondents/ Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 15.10.2012 made in M.A.C.T.O.P.No.2680 of 2010 on the file of the Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai.

For Appellants : Mr.F.Terry Chellaraja

For R2 : Mr.E.Rajadurai
For Mr.M.B.Gopalan
R1 - Exparte

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 15.10.2012 made in M.A.C.T.O.P.No.2680 of 2010 on the file of the Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai.

2. The case of the appellants is that on 18.12.2009 at about 9.30 a.m., one T.Natarajan was riding his bicycle towards Maraimalai Nagar at G.S.T. Road near Peramanur bus stop. At that time, the first respondent driving his Bajaj Discover Motorcycle bearing Registration No.TN-07-AQ-4973 in a rash and negligent manner and dashed against the

Natarajan's bicycle. As a result, the Natarajan sustained fatal injuries and died. At the time of accident, he was aged 56 years, and before the accident, he was running a Tea stall and was earning Rs.6,000/- per month. Since he died in the accident, his legal heirs who are the appellants herein filed a petition before the Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai, claiming Rs.6,00,000/- as compensation under various heads.

3. Denying the allegations, the second respondent who is the insurer of the first respondent's motorcycle filed a counter affidavit before the Tribunal stating that the accident was occurred only due to the negligent driving of the deceased and not due to the negligent driving of the first respondent. Further, it has been stated that the first respondent was not holding a valid driving licence at the time of accident and the appellants have to strictly prove that the first respondent was holding a valid driving licence at the time of accident. Moreover, it has been stated that the alleged age, occupation and income of the deceased are not true and the amount of compensation claimed is highly excessive.

4. During the trial, on the side of the appellants, the first appellant was examined as PW1, one Mrs.Viji was examined as PW2, one Mr.R.Kotteswaran was examined as PW3 and Exs.P1 to P8 were marked. On the side of the respondents, one Mr.Kupparao was examined as RW1, one Mr.P.R.Vasanthan was examined as RW2, one Mr.K.Ravi was examined as RW3 and Exs.R1 to R4 were marked.

5. The Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the appellants and awarded Rs.3,84,000/- as compensation as follows :

S.No.	Description	Amount
1.	Loss of Income (4500-1125x12x8)	3,24,000
2.	Loss of Consortium	25,000
3.	Loss of Love & Affection	30,000
4.	Funeral Expenses	5,000
	Total	3,84,000

6. Aggrieved by the award, the appellants/claimants have filed this appeal before this Court stating that the Tribunal has erred in awarding the said compensation.

7. Heard the learned counsel for the appellants and the learned counsel for the second respondent, and perused the materials available on record.

8. On perusal of the award dated 15.10.2012 passed by the Motor Accident Claims Tribunal, V Judge, Small Causes Court, Chennai, it is observed that the appellants in order to prove that the deceased was running a Tea stall and was earning Rs.6,000/- per month marked Ex.P7 Gas Subscription Receipt. In spite of the same, the Tribunal has fixed the income at Rs.4,500/- per month and this Court is inclined to modify the same as Rs.6,000/- per month. It is also observed that the appellants have marked Ex.P3 Postmortem Certificate and Ex.P4 Death Certificate to prove the age of the deceased. The Tribunal only after perusing the same has fixed the age as 56. As per the case [Sarla Verma and others vs Delhi Transport Corporation and another] reported in 2009 ACJ 1298, the multiplier for a person aged 56 is 9. But the Tribunal has wrongly adopted 8 multiplier instead of 9 and this Court is inclined to modify the same as 9. The sum of Rs.5,000/- awarded under the head of Funeral Expenses is found to be meager and this Court is inclined to enhance the same at Rs.10,000/-. The sum awarded under the other heads i.e. Rs.25,000/- for Loss of Consortium and Rs.30,000/- for Loss of Love & Affection is reasonably awarded by the Tribunal and therefore this Court is not inclined to interfere with the same.

9. In view of the observations made by this Court, the compensation awarded by the Tribunal is modified as follows :

Income	-	6,000
Deductions of 1/4 for personal expenses of the deceased (6000-1500x12x9)		
-		4,86,000
Loss of Consortium		25,000
Loss of Love & Affection-		30,000
Funeral Expenses		10,000
Total Compensation		5, 51,000

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the second respondent insurance company is directed to deposit the said amount of Rs.5,51,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their respective shares by filing a formal

petition before the concerned Court, less the amount if any,
already withdrawn. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

raja
To

1. The Motor Accident Claims Tribunal, V Judge, Small Causes
Court,
Chennai.

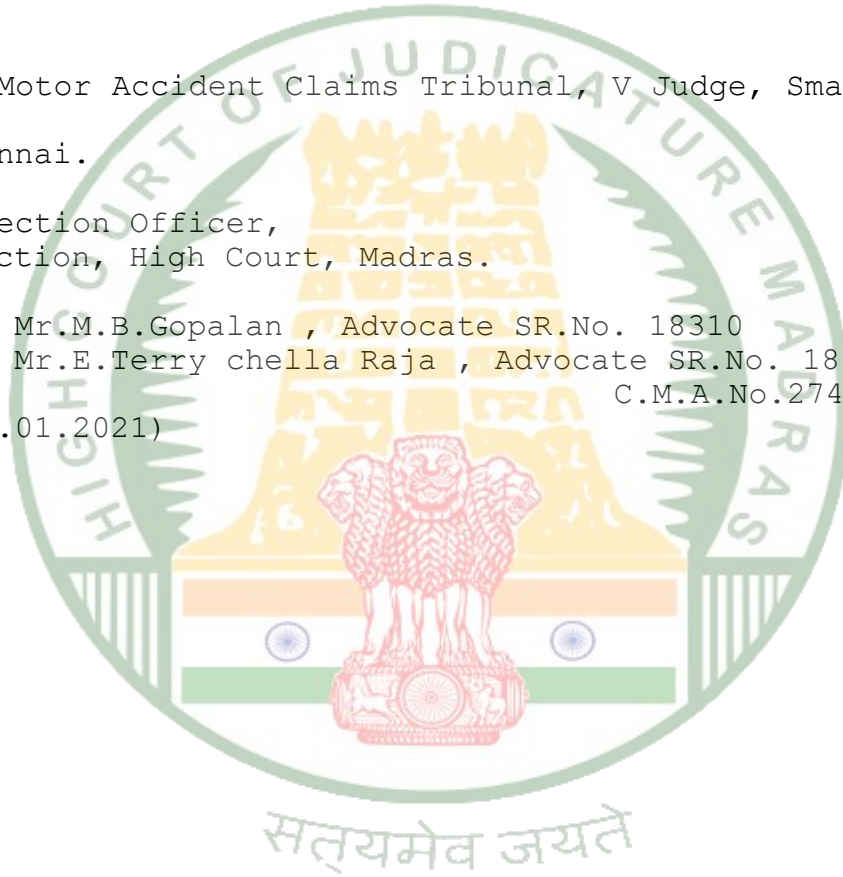
2.The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.M.B.Gopalan , Advocate SR.No. 18310

+1cc to Mr.E.Terry chella Raja , Advocate SR.No. 18103

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A.SK(21.01.2021)



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