

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3068 of 2013

1.Vidhya

2.Nandhakumar

... Appellants/Petitioner

Vs.

Manoharan

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.12.2011 made in M.C.O.P.No.299 of 2006 on the file of Motor Accident Claims Tribunal, Principal District Judge, Full Additional Charge of the I Additional District Judge, Erode.

For Appellants : Mr.C.Ramaraj for
Mr.M.Guruprasad

For respondent : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 22.12.2011 made in M.C.O.P.No.299 of 2006 on the file of Motor Accident Claims Tribunal, I Additional District Court, Erode.

2.The appellants are claimants in M.C.O.P.No.299 of 2006 on the file of Motor Accident Claims Tribunal/I Additional District Court, Erode. They filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the death of one Rangasamy, who died in the accident that took place on 05.10.2005.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver cum owner of the Maruthi Car belonging to the respondent and directed the respondent to pay a sum of Rs.1,00,000/- as compensation to the appellants.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants contended that the deceased was aged 55 years at the time of accident and was earning a sum of Rs.5,000/- per month by doing agricultural work and milk vending business. The Tribunal erred in fixing annual income of the deceased at Rs.15,000/-. The Tribunal ought to have awarded a reasonable amount towards transportation charges, funeral expenses and loss of love and affection. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Though notice was served on the respondent and his name is printed in the cause list, there is no representation either in person or through counsel.

7. Heard the learned counsel appearing for the appellant and perused the materials available on record.

8. It is the contention of the appellants that the deceased was earning a sum of Rs.5,000/- per month by doing agricultural work and milk vending business. The appellants have not produced any document to substantiate the said contention. The Tribunal on the basis of Schedule - II of the Amended Motor Vehicles Act, fixed annual income of the deceased at Rs.15,000/-, which is meagre. The Tribunal, considering Ex.P5-post-mortem certificate, fixed age of the deceased as 60 years but applied multiplier 7 which is not correct. The correct multiplier applicable is 8. The accident is of the year 2005 and hence, a sum of Rs.3,500/- per month is fixed as notional income of the deceased. The Tribunal deducted 1/3rd towards personal expenses of the deceased, which is proper. In view of the same, the amount granted by the Tribunal towards loss of income is modified to Rs.2,24,000/- ($\text{Rs.3,500/-} \times 12 \times 8 \times 2/3$). The Tribunal not awarded any amount towards loss of estate. Hence, a sum of Rs.10,000/- is awarded towards loss of estate. The amounts awarded by the Tribunal under the other heads are just and reasonable and hence the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of income	70,000	2,24,000	Enhanced

2.	Loss of love and affection	20,000	20,000	Confirmed
3.	Transport charges	5,000	5,000	Confirmed
4.	Funeral expenses	5,000	5,000	Confirmed
5.	Loss of estate	-	10,000	Granted
	Total	Rs.1,00,000/-	Rs.2,64,000/-	Enhanced by Rs.1,64,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,00,000/- is hereby enhanced to Rs.2,64,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellant shall not be entitled for any interest for the delay period on the amount of Rs.1,64,000/- enhanced by this Court as per the order of this Court dated 26.08.2013 in M.P.No.1 of 2013 in C.M.A.SR.No.34269 of 2013. The respondent is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective share as per the apportionment fixed by this Court along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

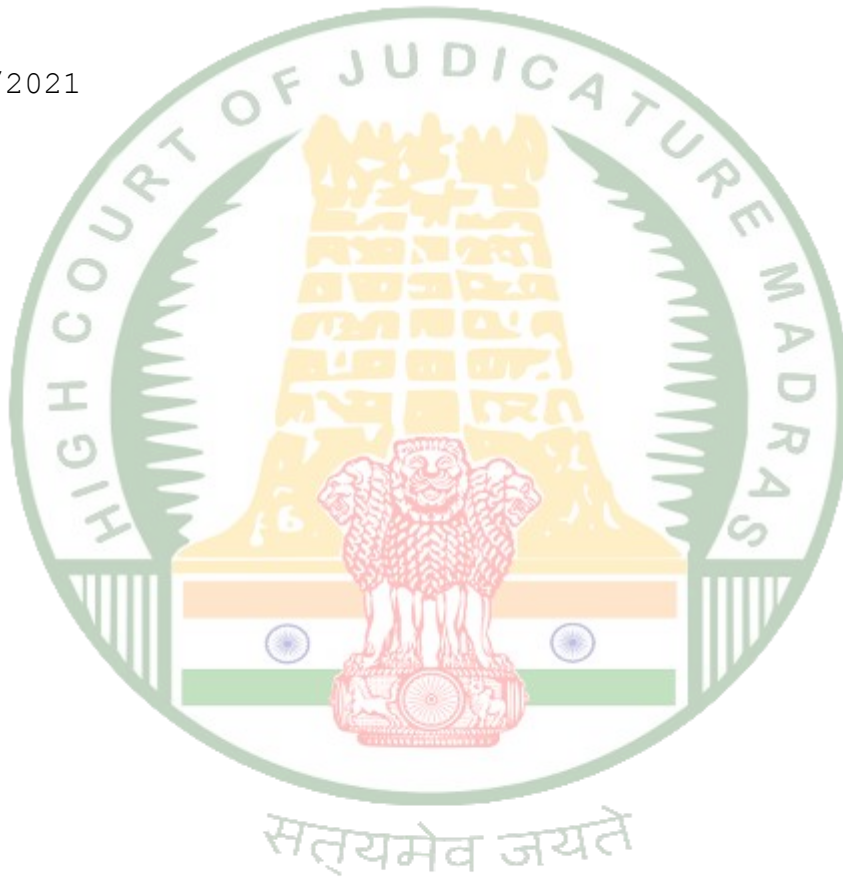
1. The Motor Accident Claims Tribunal,
Principal District Judge,
Full Additional Charge of the I Additional District Judge,
Erode.

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

+1cc to Mr.Guruprasad, Advocate Sr.22113

C.M.A.No.3068 of 2013

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