

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.3532 of 2013

1. Subramani
2. Janaki

... Appellants

Vs.

1. Anchor Road Construction,
Old No.5, New No.9, Gandhi Street,
Shenoy Nagar,
Chennai - 600 030.
2. The National Insurance Company Limited,
C-32, 2nd Floor, 2nd Avenue,
Thirumangalam, Anna Nagar,
Chennai - 600 040.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 25.11.2011 made in M.A.C.T.O.P.No.2488 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.F.Terry Chellaraja

For R2 : Mr.S.Arunkumar

R1 - Exparte

Judgment

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 25.11.2011 made in M.A.C.T.O.P.No.2488 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2. The case of the appellant is that on 27.02.2008 at about 6.30 p.m., one Karunakaran was riding his motorcycle bearing Registration No.TN-22-U-4045 from Kolappam to Vandalur at Kelambakkam Vandalur Road opposite to Tamilnadu Forest. At that time, the first respondent's lorry bearing Registration No.TN-02-U-2223 driven by its driver in a rash and negligent manner dashed behind the Karunakaran. As a result, the Karunakaran sustained fatal injuries and died on the spot. At the time of accident, he was aged 25 years, and before the accident, he was doing welding and plumbing work at Super Auto

Company, Kolapakkam and was earning Rs.8,000/- 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, Chief Judge, Small Causes Court, Chennai, claiming Rs.6,00,000/- as compensation under various heads.

3. The second respondent insurance company filed a counter affidavit before the Tribunal stating that the accident had occurred only due to the rash and negligent riding of the rider of the motorcycle and there was no fault on the part of the first respondent's driver. Further, it has been stated that the driver of the first respondent had no valid driving licence at the time of accident. Hence they are not liable for the claim. 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 Mr.Manokaran was examined as PW2, one Dr.M.Saravanabhavanantham was examined as PW3, one Mr.Kalidoss was examined as PW4 and Exs.P1 to P12 were marked. On the side of the respondents, neither any witness was examined nor any document was marked.

5. The Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai, after considering the pleadings, oral and documentary evidence, allowed the petition in favour of the appellants and awarded Rs.4,90,000/- as compensation as stated below :

S.No.	Description	Amount
1.	Pecuniary Loss (6000 x 12 - 50% x 13)	4,68,000
2.	Loss of Love and Affection	10,000
3.	Funeral and Transport Expenses	12,000
	Total	4,90,000

6. Aggrieved by the award, the appellants have filed this appeal before this Court stating that the Tribunal has erred in fixing the 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 25.11.2011 passed by the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai, it is observed that the appellants have marked Salary certificate (Ex.P12) and examined one Mr.Kalidoss (PW4) who was the proprietor in JR Engineering and Fabrication Company to prove the income of the deceased, but the Tribunal

without considering the same reduced the monthly income at Rs.6,000/- and fixed the annual income at Rs.72,000/-. It is found to be incorrect and this Court is inclined to modify the same as Rs.8,000/- per month and Rs.96,000/- per year. Further, it is observed that the deceased was a bachelor at the time of accident, therefore, 50% of his income has been deducted for his personal and living expenses. As per the case [Sarla Verma and others vs Delhi Transport Corporation and another] reported in 2009 ACJ 1298, if the deceased was a bachelor at the time of accident, the mother alone will be considered as a dependent. The Tribunal only considering the same has taken the age of the mother of the deceased and adopted the appropriate multiplier 13 to find out the Pecuniary Loss. The sum of Rs.10,000/- awarded under the head of Loss of Love and Affection is found to be meager, hence this Court is inclined to enhance the same as Rs.20,000/-. The sum awarded under the other head is just and reasonable, hence the same is hereby confirmed.

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

S.No .	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Pecuniary Loss	4,68,000 (6000x12-50% x13)	6,24,000 (8000x12-50% x13)	Enhanced
2.	Loss of Love and Affection	10,000	20,000	Enhanced
3.	Funeral and Transport Expenses	12,000	12,000	Confirmed
	Total	4,90,000	6,56,000	Enhanced by 1,66,000

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the second respondent is directed to deposit the said amount of Rs.6,56,000/- 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-VI)

//True Copy//

Sub Assistant Registrar

raja

To

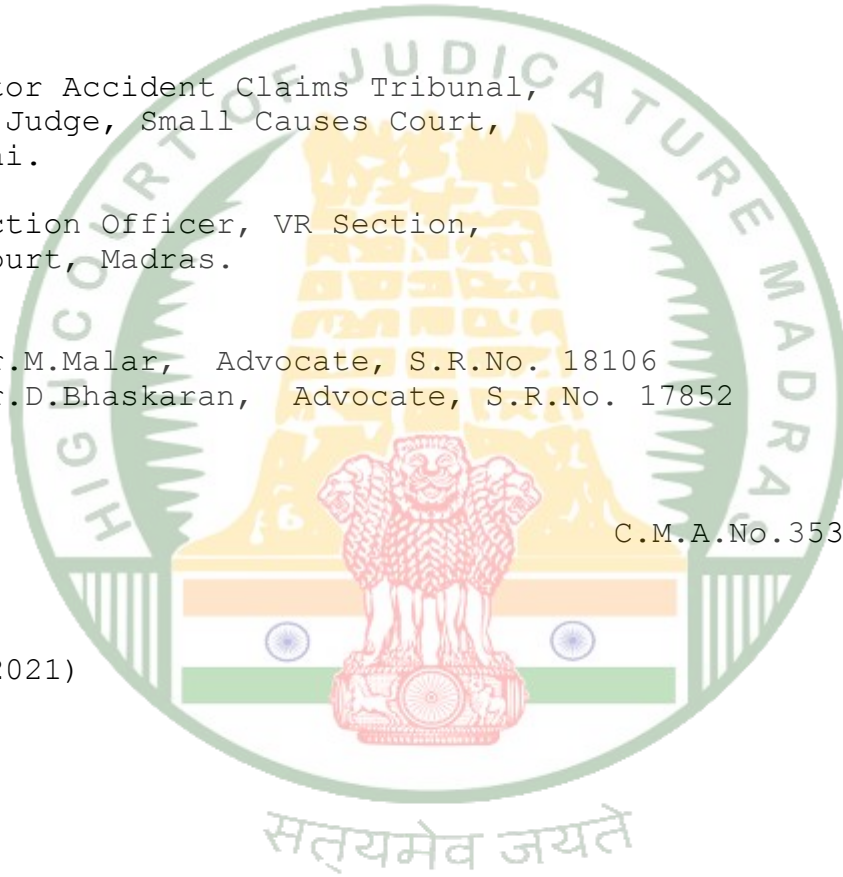
1. The Motor Accident Claims Tribunal,
Chief Judge, Small Causes Court,
Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

+1cc to Mr.M.Malar, Advocate, S.R.No. 18106

+1cc to Mr.D.Bhaskaran, Advocate, S.R.No. 17852

C.M.A.No.3532 of 2013

SSV(CO)
GN(21/01/2021)



WEB COPY