

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2064 of 2018

1. Pachiammal
2. Selvi
3. Rathiya
4. Kanchana

... Appellants

vs.

1. K.Jothi
2. National Insurance Company Ltd.,
No.751, Anna Salai, 3rd floor,
Chennai - 600 001.

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, enhancement of compensation against the judgment and decree dated 05.10.2016 and made in M.A.C.T.O.P.No.7840 of 2013 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellants : Mrs.M.Malar

For R2 : Mr.D.Baskaran

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.7,32,500/- towards compensation for the death of one Chandrasekar in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 05.09.2013, at about 19.30 hours, the deceased Chandrasekar was riding his motorcycle bearing Registration No.TN 21 AX 4519, proceeding from Chengalpattu to Kancheepuram, near Palur Pattai. At that time, the lorry bearing Registration No.TN 18 P 5321 belonging to the first respondent and insured with the second respondent insurance company, driven by its driver in a rash and negligent manner, came from the opposite direction and dashed against the motorcycle. Due to the same, the deceased fell down on the road and sustained fatal injuries and died. The wife and daughters of the deceased, being the surviving legal heirs, filed a claim petition before the Tribunal, seeking compensation of Rs.15,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.7,32,500/- with interest at the rate of 7.5% per annum from the date of petition. Feeling

aggrieved and being dissatisfied with the quantum of compensation so awarded, the appellants are before this Court with the present appeal seeking enhancement of compensation.

3.The learned counsel for the appellants has submitted that the Tribunal has erred in awarding a meagre sum of Rs.7,32,500/- as against the claim of Rs.15,00,000/- made by the appellants / claimants. The learned counsel further submitted that when the deceased was earning Rs.15,000/- as an agriculturist, the Tribunal has erred in taking his income only at Rs.7,500/- per month. It is also submitted that the amounts awarded towards loss of consortium, loss of love and affection and funeral expenses are meagre and hence, the compensation awarded by the Tribunal needs interference at the hands of this Court by way of enhancement.

4.Per contra, the learned counsel for the second respondent Insurance Company submitted that after properly analysing the materials and evidence, the Tribunal has awarded the compensation, which is just and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The details of the compensation awarded by the Tribunal are as under:

HEADS	AMOUNT (Rs.)
Pecuniary Loss	4,72,500/-
Loss of consortium to the 1st appellant	75,000/-
Loss of love and affection to 2,3 and 4th appellants (Rs.50,000/- each)	1,50,000/-
Funeral expenses	25,000/-
Transport expenses	10,000/-
TOTAL...	7,32,500/-

7.In respect of loss of dependency, the Tribunal has relied upon the exhibits, evidence of witnesses, Death Certificate of the deceased, Post Mortem Certificate of the deceased, and also taken note of the II Schedule of the Motor Vehicles Act and all other aspects in a proper perspective and

has awarded a sum of Rs.4,72,500/-. Since the claimants have lost their father at their younger ages, the Tribunal has awarded a sum of Rs.1,50,000/- towards loss of love and affection. Further the Tribunal has awarded reasonable sums towards other heads.

8.In view of the above, the compensation awarded by the Tribunal at Rs.7,32,500/- with interest at the rate of 7.5% per annum from the date of petition, is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. The second respondent / insurance company is directed to deposit the compensation amount awarded by the Tribunal, 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 being made, all the claimants are permitted to withdraw their respective shares on making proper application before the Tribunal.

Index : yes/no
Internet : yes/no

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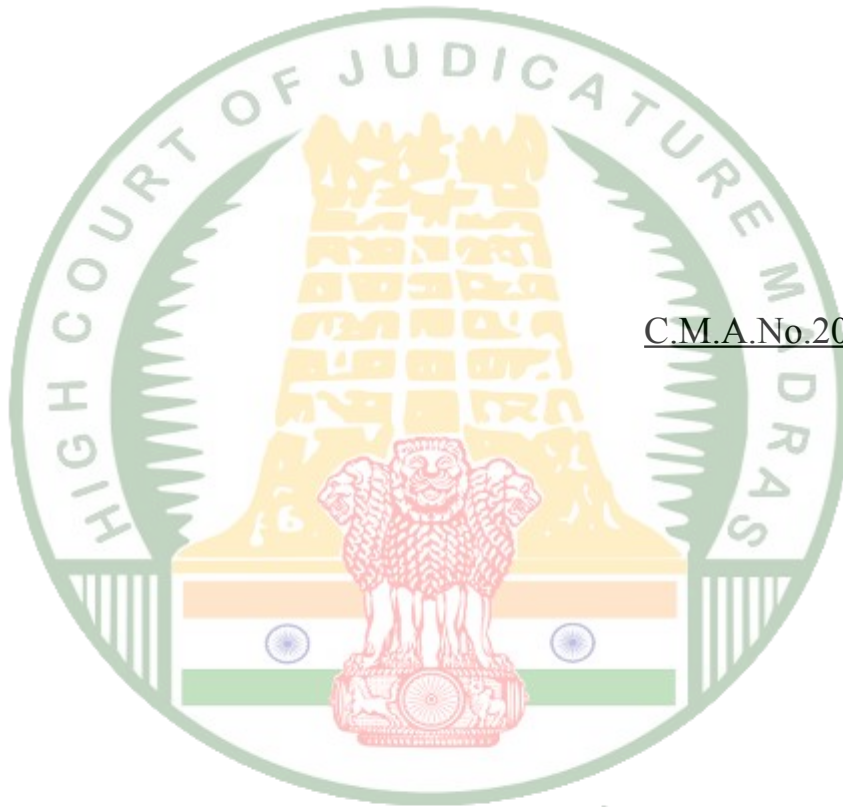
1. The Motor Accident Claims Tribunal,
The III Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.



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R.MAHADEVAN, J.

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