

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1519 of 2020

1. Chandra
2. Amirthavalli
3. Rajendran
4. Valarmathi
5. C.Vijayakumar
6. C.Vijayashanthi
7. R.Murugan
8. R.Govindasamy ... Appellants/Petitioners

Vs.

1. S.Sathyavani
2. Divisional Manager,
National Insurance Company Ltd.,
DO No.110 JN St.,
Puducherry - 605 001. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 31.01.2020, made in M.C.O.P.No.999 of 2017, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore (FAC).

For Appellants सत्यमेव जयते : Ms.Ramya V.Rao

For Respondent 2 : Mr.J.Chandran

J U D G M E N T

Not feeling satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the claimants are before this Court with this appeal seeking enhancement of compensation.

2. It is a case of fatal accident. The deceased is the mother of the appellants/claimants. According to the claimants,

on 29.12.2016 at about 08.00 a.m. while the deceased was walking along the Cuddalore to Puducherry main road near Ariyankuppam, a scooter bearing Registration No.PY-01-CL-9630, owned by the first respondent, and insured with the second respondent / insurance company, came in a rash and negligent manner and dashed against the deceased, in which she sustained serious injuries and was taken to the Indira Gandhi Medical College and Research Institute, Kathirkamman, Puducherry, where she succumbed to her injuries. According to the appellants/claimants the deceased was a vegetable vendor and she was the sole breadwinner of the family and hence claiming a sum of Rs.10,00,000/- as compensation, the appellants/claimants filed the claim petition before the Tribunal.

3. Before the Tribunal, both the respondents remained ex parte. In order to prove the case, the appellants/claimants examined two witnesses as P.Ws.1 and 2 and marked as many as eight documents as Exs.P1 to P8.

4. The Tribunal after considering the materials available on record, came to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the two wheeler and also held that the driving licence was not produced before the Court and fixed the liability on the owner of the vehicle and directed the second respondent/insurance company to pay the compensation and recover the same from the first respondent. So far as the quantum of compensation is concerned, the Tribunal fixed the monthly income of the deceased at Rs.3,000/- and deducted 1/5 towards her personal expenses and applying multiplier 3 granted a sum of Rs.86,400/-; towards loss of estate and funeral expenses awarded a sum of Rs.15,000/- each. Thus, the Tribunal arrived at a total compensation of Rs.1,16,400/-. Not satisfied with the said compensation awarded by the Tribunal, the appellants/claimants seeking enhancement of compensation have filed the present appeal before this Court.

5. I have heard the learned counsel on either side and also perused the records carefully.

6. Admittedly, the deceased was 80 years old and the Tribunal fixed the monthly income at Rs.3,000/- and deducted 1/5 towards her personal expenses as there were eight claimants. It is seen from the records that the age of the deceased was fixed at 80 years based on the age mentioned in the postmortem certificate. Since no multiplier is available to 80 years old, as per the judgement of the Hon'ble Supreme Court in Sarla Verma Vs. Delhi Transport Corporation reported in (2009) 6 SCC 121, considering the facts and circumstances of the case, this Court is of the view that a sum of Rs.1,00,000/- can be awarded towards loss of dependency instead of Rs.86,400/- awarded by the

Tribunal. So far as loss of love and affection is concerned, the appellants/claimants are married sons and daughters and they are living separately, however they are entitled for loss of love and affection as per the judgement of the Hon'ble Supreme Court in United India Insurance Company Vs. Satinder Kaur @ Satwinder Kaur made in C.A.No.2705 & 2706 of 2020, dated 30.06.2020, hence a sum of Rs.2,00,000/- is awarded towards loss of love and affection to the appellants/claimants. In respect of other heads are concerned, the Tribunal has rightly granted compensation and there is no need to interfere with the same.

7. In view of the above, the compensation awarded by the Tribunal is modified as follows:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Loss of dependency	86,400	1,00,000	Enhanced
2.	Loss of love and affection	-	2,00,000	Granted
3.	Loss of estate	15,000	15,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
	Total	1,16,400	3,30,000	Enhanced by Rs.2,13,600/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.1,16,400/- awarded by the Tribunal is hereby enhanced to Rs.3,30,000/- together with interest at the rate of 7.5 % per annum from the date of claim petition till the date of deposit. The second respondent / insurance company 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 to the credit of M.C.O.P.No.999 of 2017, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore (FAC) and recover the same from the first respondent/owner of the vehicle in the manner known to law. On such deposit, the appellants/claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The

appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

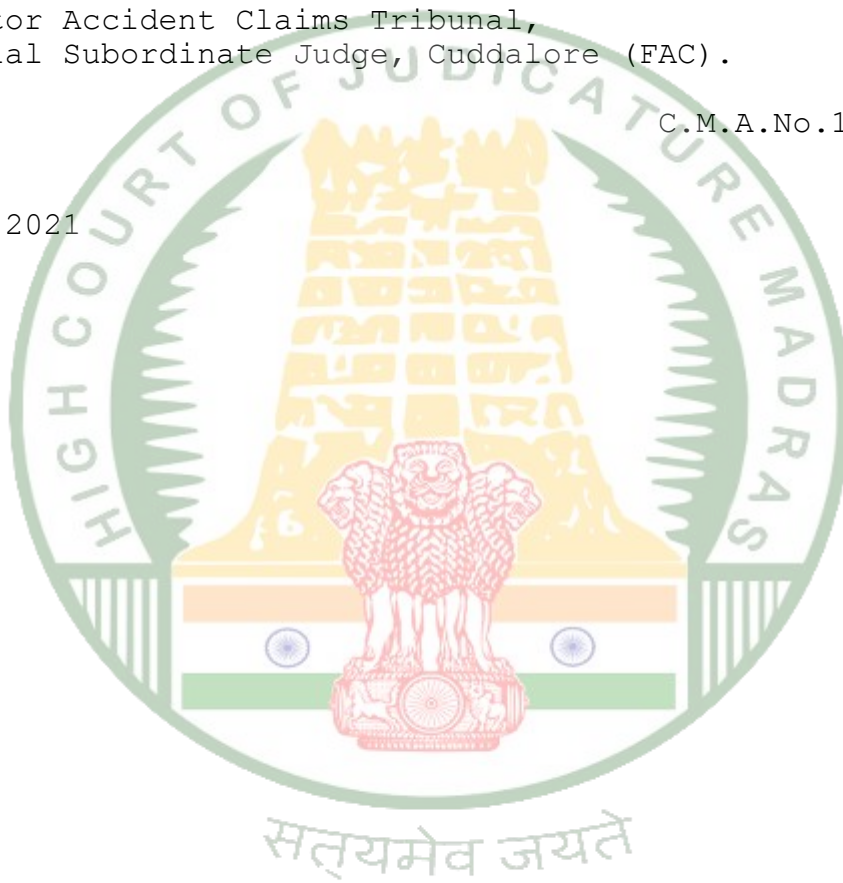
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To

The Motor Accident Claims Tribunal,
Special Subordinate Judge, Cuddalore (FAC).

C.M.A.No.1519 of 2020

PPA (CO)
KKN 22.04.2021



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