

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.1378 of 2017

1.Uma Maheswari

2.Rajammal

...Appellants/Claimants

Vs.

1.M.Govindaraju

2.A.Sivakumar

3.Royal Sundaram Alliance Insurance Company Ltd.,
Branch Office,
8/H1, Mangalam Building,
4 Roads, Salem - 636 009.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.01.2016 made in M.C.O.P.No.518 of 2013 on the file of Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellants : Mr.A.R.Suresh

For R3 : Mr.G.Vasudevan

: No appearance for R2

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of the compensation awarded by the Tribunal in the award dated 29.01.2016 made in M.C.O.P.No.518 of 2013 on the file of Motor Accident Claims Tribunal, Sub Court, Sankari.

2.The brief facts of the case are as follows:

On 16.10.2013, at about 18.30 hours, the deceased Gopal was riding his Hero Honda Splendor motorcycle, bearing Registration No.TN 30 U 9343 on the Bhavani to Mettur Main Road. At that time, near Chittar petrol bunk an Ashok Leyland Truck goods vehicle, bearing Registration No.TN 30 AC 5308, belonging to the

2nd respondent, insured with the 3rd respondent/ Insurance Company, driven by its driver/1st respondent in a rash and negligent manner, hit against the deceased's motorcycle. Due to the said impact, the deceased Gopal sustained fatal injuries and died on the spot. Stating that the accident had occurred only due to the carelessness and negligence on the part of the driver of the truck, the wife and mother of the deceased filed a claim petition seeking compensation of Rs.30,00,000/-.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the truck and directed both the 2nd respondent as well as 3rd respondent/Insurance Company being insurer of the said truck, jointly and severally to pay a sum of Rs.14,64,000/- as compensation to the appellants.

4.Not being satisfied with the 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/claimants has contended that the compensation of Rs.14,64,000/- awarded by the Tribunal, is meagre. The deceased was working as a Powerloom weaver and mason and was earning a sum of Rs.10,000/- per month. The Tribunal has fixed a meagre sum of Rs.6,000/- as monthly income of the deceased. The amounts awarded by the Tribunal under different heads are also meagre, according to the learned counsel for the appellants.

6.Per contra, the learned counsel appearing for the 3rd respondent/Insurance Company has contended that the Tribunal, after considering the materials and evidence in proper perspective, has rightly awarded the compensation, which is just, fair and reasonable. The appellants have not made out any case for enhancement of compensation, according to the learned counsel for the third respondent Insurance Company.

7.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent/Insurance Company and perused the materials available on record carefully and meticulously.

8.The appellants have contended in the claim petition that the deceased was aged 28 years and was working as powerloom weaver and mason and was earning a sum of Rs.20,000/- per month. One Eswaran, employer of the deceased, was examined as P.W.2. Ex.P16 is the salary certificate issued to the deceased. Ex.P20 is the series of Electricity bills to prove the textile business. Ex.P21 is the Salary Accounts Note in respect of the

deceased Gopal. A perusal of the documents would show that the deceased Gopal was employed under P.W.2 till his death and was earning a weekly cooli between a sum of Rs.1,600/- and Rs.3,054/-. Further, there was a fluctuation in the weekly income of the deceased. The appellants did not prove other income sources of the deceased to substantiate that the deceased was earning a sum of Rs.20,000/- per month. In the circumstances, the Tribunal has fixed a sum of Rs.6,000/- as the monthly income of the deceased, notionally and thereafter, added 50% of the amount towards future prospects, deducted 1/3rd of the amount towards personal expenses of the deceased, adopted the multiplier of 17 and has arrived at the loss of dependency at Rs.12,24,000/-. Taking note of the materials and evidence and the facts and circumstances, this Court deems it fit to enhance the monthly income of the deceased to Rs.9,000/-. If that is done, the loss of dependency works out to Rs.18,36,000/- and it is awarded accordingly. The amounts awarded by the Tribunal towards loss of consortium and loss of love and affection are excessive and hence the same are hereby reduced to Rs.40,000/- each. The amounts awarded by the Tribunal towards other heads are confirmed.

9.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Loss of dependency	18,36,000/-
Loss of consortium	40,000/-
Loss of love and affection	40,000/-
Funeral expenses	25,000/-
Transportation expenses	10,000/-
Damage to clothes and properties	5,000/-
TOTAL	19,56,000/-

Thus, the claimants are entitled to the modified compensation of Rs.19,56,000/- with interest at the rate of 7.5% per annum from the date of petition.

10.In the result, this Civil Miscellaneous Appeal is partly allowed. Both the 2nd respondent as well as the 3rd respondent Insurance Company are directed to deposit the modified amount of compensation now determined by this Court, with interests and costs, jointly and severally, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw the same, as per the ratio of apportionment made by the Tribunal on making proper

application before the Tribunal. No costs. It is made clear that the appellants/ claimants have to pay appropriate Court fee, in order to receive the awarded amount.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mtl

To

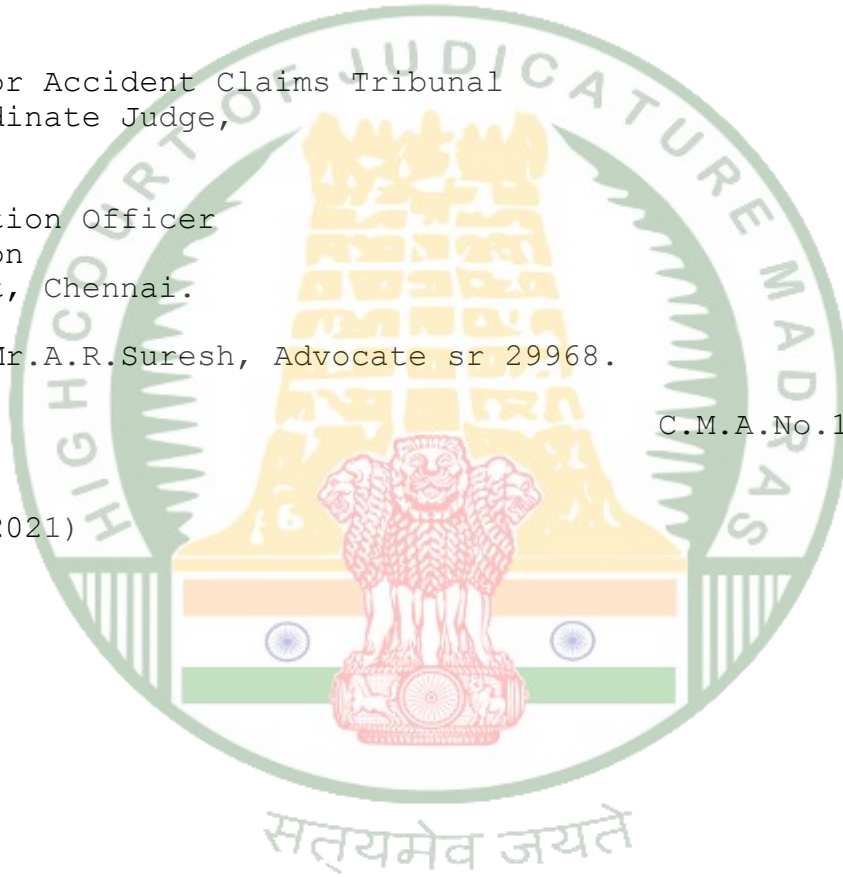
1.The Motor Accident Claims Tribunal
The Subordinate Judge,
Sankari.

2.The Section Officer
V.R.Section
High Court, Chennai.

+1 CC to Mr.A.R.Suresh, Advocate sr 29968.

C.M.A.No.1378 of 2017

LN(CO)
SP(21/04/2021)



WEB COPY