

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.2099 of 2017

1.Jayanthi

2.Suresh

.. Appellants/Petitioners

Vs.

1.S.K.Moorthy

2.HDFC Chubb General Insurance Co. Ltd.,

5th Floor, Express Towers,

Nariman Point,

Mumbai.

Now the Office at Old No.528,

New No.519, Anna Salai,

Chennai-18.

... Respondents/Respondents

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.08.2009 passed in M.C.O.P.No.1891 of 2006 on the file of the learned VI Judge, Small Causes Court-cum-Motor Accidents Claims Tribunal, Chennai.

For Appellants

: Mr.F.Terry Chella Raja for
Mr.V.Velu

For Respondent-1

: Mr.P.B.Sampath Kumar

For Respondent-2

: Ms.C.Harini for

M/s.M.B.Gopalan and Associates.

J U D G M E N T

The present Civil Miscellaneous Appeal is directed against the judgment and decree dated 20.08.2009 passed by the learned VI Judge, Small Causes Court-cum-Motor Accidents Claims Tribunal, Chennai in MCOP No.1891 of 2006.

2. The accident occurred on 15.05.2006 at about 07.30 Hours at G.S.T. Road near Iyyanar Koil, Madurantakam. The deceased girl standing at the corner of the G.S.T. Road, Madurantakam is

the victim. The Madurantakam Police Station, Kancheepuram District registered a case in Crime No.388 of 2006.

3. The Tribunal adjudicated the issues and the liability was fixed on the second respondent-Insurance Company. The factum regarding the accident was also established.

4. The only contention of the learned counsel appearing on behalf of the appellant is that the compensation awarded by the Tribunal is inadequate and not in consonance with the parameters fixed by the Hon'ble Supreme Court of India in the case of Kishan Gopal and Others vs. Lala and Others [2013 (2) TN MAC 358 (SC)].

5. As per the judgment, cited supra, the Hon'ble Supreme Court has taken the yearly income as Rs.30,000/- and 15 multiplier was applied. Accordingly, the total compensation payable to the minor victim aged about 12 years would be Rs.4,50,000/- and another Rs.50,000/- was awarded on other heads, including love and affection, transportation, funeral expenses.

6. Thus, the appellants/claimants are entitled for the total compensation of Rs.5 lakhs. Contrarily, the Tribunal has awarded a sum of Rs.2,85,000/-, which is not in consonance with the judgment of the Apex Court of India, cited supra. Thus, this Court is inclined to enhance the compensation from Rs.2,85,000/- to Rs.5,00,000/-. The appellants/claimants are entitled to receive the enhanced compensation of Rs.5 lakhs along with the accrued interest at the rate of 7.5% per annum.

7. The second respondent-Insurance Company is directed to deposit the entire Award amount, including the enhanced amount along with accrued interest at the rate of 7.5% per annum, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited and the appellants/claimants are permitted to withdraw the entire Award amount by filing an appropriate application before the Tribunal and the payments are made only through RTGS.

8. It is brought to the notice of this Court that while condoning the delay of 255 days, this Court passed an order stating that the claimants are not entitled to get interest for the said 255 days. Thus, the interest amount for 255 days is to be calculated and deducted from the amount payable to the appellants/claimants. The appellants/claimants are liable to pay the additional Court Fee, if any.

9. Accordingly, the judgment and decree dated 20.08.2009 passed by the learned VI Judge, Small Causes Court-cum-Motor

Accidents Claims Tribunal, Chennai in MCOP No.1891 of 2006 is set aside. Consequently, C.M.A.No.2099 of 2017 stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn
To

The VI Judge,
Small Causes Court,
Chennai.

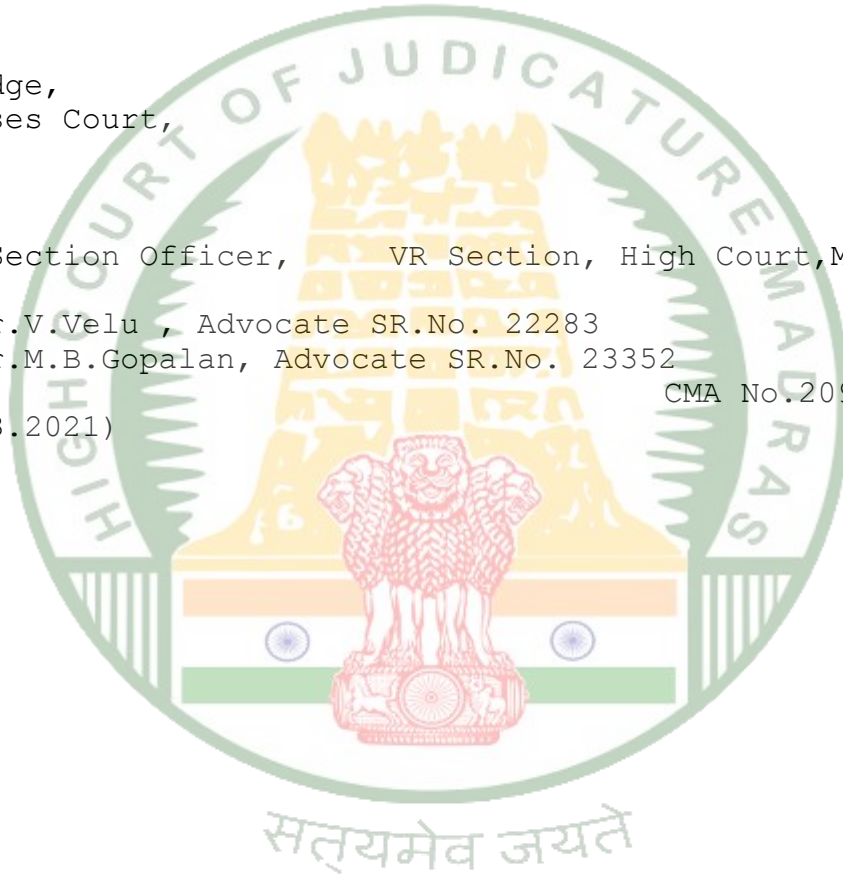
Copy to:
The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.V.Velu , Advocate SR.No. 22283

+1cc to Mr.M.B.Gopalan, Advocate SR.No. 23352

CMA No.2099 of 2017

A.SK(22.03.2021)



WEB COPY