

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3278 of 2017

1.Murugan
2.Chitra

... Appellants

Vs

1. Ranjithkumar
(Notice for R1 may be dispensed with for the time being and separate petition is filed for the same)

2. The Manager,
Reliance General Insurance Company Limited,
Shree Lakshmi Complex, 1st Floor,
Bharathi Veedhi,
Omalur Main Road, Swarnapuri,
Salem.

... Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.8.2017 made in M.C.O.P.No.333 of 2015, on the file of the Motor Accidents Claims Tribunal cum Principal District Judge, Namakkal.

For Appellants : Mr.C.Kulanthaivel

For R1 : Notice dispensed with

For R2 : Mr.S.Arunkumar

JUDGMENT

This appeal is preferred by the appellants/claimants against the award of a sum of Rs.10,93,000/- towards compensation for the death of one Parthiban, in a motor vehicle accident.

2.The case in brief, is as follows :

On the fateful day, ie. on 08.02.2015, at about 11.15 am, when the deceased Parthiban was travelling as a pillion rider in the two wheeler (Honda Shine) bearing Registration No.TN-28 AD

8066 proceeding from Namakkal to Mohanur Main Road, near Rasipalayam Uppathu Palam, the Tata Ace vehicle bearing Registration No.TN 28 AK 1900 belonging to the first respondent and insured with the second respondent insurance company, came in a rash and negligent manner and dashed against the two wheeler. Due to the said impact, the deceased fell down on the road, sustained fatal injuries and died on the spot. The father and mother of the deceased, being the surviving legal heirs, filed a claim petition before the Tribunal, seeking compensation of Rs.30,00,000/-. The Tribunal, after considering the oral and documentary evidence available on record, awarded a total compensation of Rs.10,93,000/- with interest at 7.5% per annum from the date of petition. Feeling aggrieved and being dissatisfied with the quantum so awarded, the appellants/claimants have preferred this appeal seeking enhancement of the same.

3.The learned counsel for the appellants/claimants has submitted that at the time of accident the deceased was a final year engineering student and the Tribunal has fixed his notional income only at Rs.10,000/- per month. Further he submitted that the Tribunal ought to have taken the future prospects of the deceased as per the ruling of the Apex Court. It is also submitted that the amounts awarded towards loss of love and affection, loss of estate, funeral expenses and transport 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 analysing the materials and evidence, the Tribunal has awarded the compensation, which is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellants and the learned counsel for the second respondent and perused the materials available on record.

6.The mother of the deceased was examined as P.W.1 before the Tribunal, who deposed that the deceased was aged about 20 years and was studying final year B.E. In the absence of any material evidence, the Tribunal fixed a sum of Rs.10,000/- per month as the notional income of the deceased, deducted 50% towards personal expenses of the deceased, adopted 18 multiplier and awarded a sum of Rs.10,80,000/- towards loss of dependency. The Tribunal has not added any amount towards future prospects in the notional income for arriving at the compensation towards loss of dependency. As per the judgment of the Honourable Supreme Court in the case of National Insurance Company Limited

Vs. Pranay Sethi)\, reported in 2017-13 SCALE 12, the deceased is entitled to 40% towards future prospects. If that is done, the loss of dependency works out to Rs.15,12,000/- ([Rs.10,000 + 4,000] x 12 x 18 x ½). Accordingly, the compensation awarded by the Tribunal towards loss of dependency stands modified to Rs.15,12,000/-. The Tribunal has not awarded any amount towards transport expenses and hence, a sum of Rs.10,000/- is now awarded under this head. Further, it would be appropriate to enhance the amounts awarded by the Tribunal towards loss of estate to Rs.5,000/-, towards funeral expenses to Rs.10,000/- and loss of love and affection to Rs.50,000/-. Thus, the details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Loss of Dependency	15,12,000/-
Loss of Estate	5,000/-
Funeral expenses	10,000/-
Loss of love and affection	50,000/-
Transportation	10,000/-

TOTAL.	15,87,000/-
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Therefore, the appellants/ claimants are entitled to the modified compensation of Rs.15,87,000/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the appellants have to pay appropriate Court fee in order to receive the awarded amount.

7.The second respondent insurance company on behalf of the first respondent / owner of the vehicle, is directed to deposit the modified compensation amount as ordered above, after deducting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective shares as per the ratio of apportionment made by the Tribunal on making proper application.

8.Accordingly, this Civil Miscellaneous Appeal is allowed in part. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

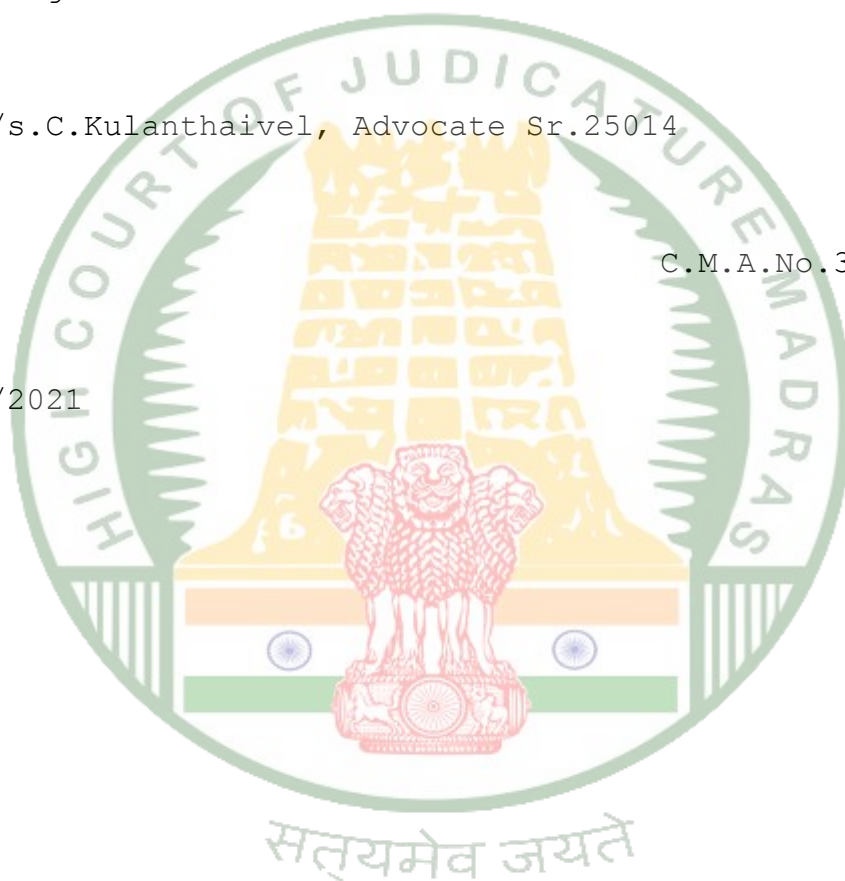
1.The learned Principal District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

2.The Section Officer,
VR Section,
Madras High Court.

+1cc to M/s.C.Kulanthaivel, Advocate Sr.25014

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