

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.873 of 2017

1.A.Vasanth

2.A.Kavitha

3.A.Sangeetha

.. Appellants/Petitioner

Vs.

1.A.Annadurai

2.M/s.Royal Sundaram Alliance Insurance Company,
48, Thites Road,
Chennai 600 014.

3.K.Appavoo

4.K.R.Matheswaran

5.United India Insurance Company Limited,
146, N Kumar Complex,
Thiruchengode Tk,
Namakkal District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.10.2013 made in M.C.O.P.No.49 of 2010 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tiruchengode.

For Appellants : Mr.P.Srinivas

For Respondents: M/s.C.Harini for
Mr.N.Vijayaraghavan for R2
R3 & R4 - No appearance
Mr.J.Chandran for R5

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated

08.10.2013 made in M.C.O.P.No.49 of 2010 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tiruchengode.

2.The appellants are the claimants in M.C.O.P.No.49 of 2010 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tiruchengode. They filed the above said claim petition, claiming a sum of Rs.10,20,500/- as compensation for the death of one Ayyavoo who died on 04.09.2008 due to the accident that took place on 06.03.2008.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver-cum-owner of the van/first respondent and insured with the second respondent as well as driver of the lorry/ third respondent belonging to the fourth respondent and insured with the fifth respondent and awarded a sum of Rs.25,000/- as compensation and directed the respondents 1 and 2 to jointly and severally pay 30% compensation and respondents 3 to 5 to jointly and severally pay 70% compensation to the appellants.

4.Not being satisfied with the amounts 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 contended that the deceased Ayyavoo sustained grievous injuries in the accident. P.W.2 Doctor was examined to prove the nature of injuries sustained by the deceased. Though the deceased Ayyavoo died after six months of the accident, the cause of the death is only due to the injuries sustained by him in the accident that occurred on 06.03.2008. The deceased has taken continuous treatment till his death. The Tribunal without considering the same, awarded only a sum of Rs.25,000/- towards transportation and medical expenses altogether. The Tribunal ought to have awarded more compensation and prayed for enhancement of compensation.

6.Per contra, learned counsel appearing for the respondents 2 and 5/ Insurance Companies separately contended that the deceased has not died due to the injuries sustained by him in the accident and the appellants have not proved the deceased Ayyavoo died only due to the injuries sustained in the accident. The Tribunal properly appreciating the above facts, has rightly awarded only a sum of Rs.25,000/- altogether towards medical expenses and transportation. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellants as

well as the respondents 2 and 5/Insurance Companies and perused the materials available on record.

8.From the materials on record, it is seen that the appellants have contended that the deceased was taking treatment till his death for the injuries sustained by him in the accident and died after six months of the accident. The appellants have not substantiated the said contention by letting in any evidence. They have marked Ex.P3/ medical bills and Ex.P5/Doctor's prescription, to prove the injuries sustained by the deceased. They have not examined the author of the said documents. The appellants failed to prove the nexus between the injury and death. In the absence of any material evidence to prove that the deceased Ayyavoo died due to the injuries suffered in the accident, the Tribunal considering Ex.P3/series of Medical bills and Ex.P5/Doctor's prescription, has awarded a sum of Rs.15,000/- towards medical expenses and Rs.10,000/- towards transportation and the same is proper. The appellants are not entitled to get any enhancement.

9.In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.25,000/- awarded by the Tribunal as compensation to the appellants, along with interest and costs is hereby confirmed. The respondents 1 and 2 are jointly and severally directed to deposit 70% of the award amount and the respondents 3 to 5 are jointly and severally directed to deposit the remaining 30% of the award amount, 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.49 of 2010 on the file of Motor Accidents Claims Tribunal, Subordinate Court, Tiruchengode. On such deposit, the appellants are permitted to withdraw their respective share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Vkr

To

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

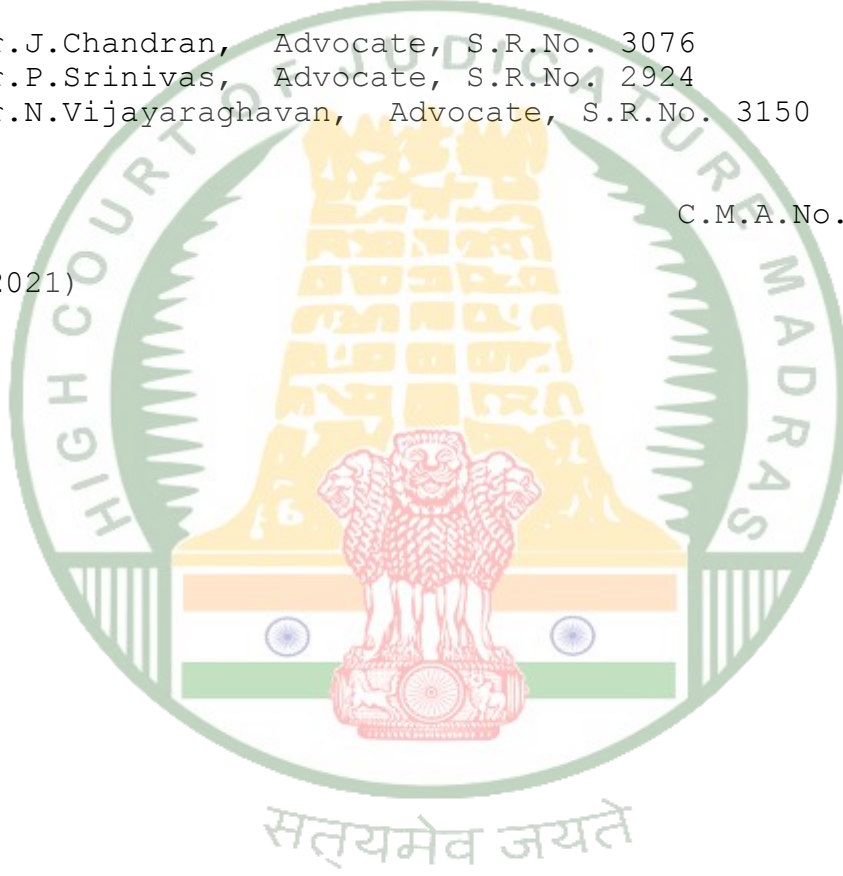
Copy To

The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.J.Chandran, Advocate, S.R.No. 3076
+1cc to Mr.P.Srinivas, Advocate, S.R.No. 2924
+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No. 3150

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