

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2886 of 2014

1.M. Jasna Mary

2. M. Isabella Margaret

3. Dorothy Amala ...Appellants/Petitioners

(A3 was declared as Major vide order dated 09.08.2019
made in C.M.P. No.18443 of 2014) in CMA 2886 of 2014

Versus

1.P. Kumaresan

2. The National Insurance Co. Ltd.,
DAB-1, Murugesu Naicker Office Complex,
66, Greaves Road, Chennai - 6

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed against the order and
decree dated 09.07.2014 made in M.C.O.P.No.319 of 2011 on the
file of the Motor Accident Claims Tribunal, Chief Judge, Small
Causes Court, Chennai.

For Appellant : Mr.T.G. Balachandran

For 2nd Respondent : Mr.D. Bhaskaran

R1 : No appearance

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J U D G M E N T

The legal representatives of the deceased have filed this
appeal against the award and decree in M.C.O.P.No.319 of 2011
dated 09.07.2014 on the file of the Motor Accident Claims
Tribunal, Small Causes Court, Chennai seeking for enhancement of
compensation.

2. The appellants have filed the aforesaid claim petition before the Tribunal seeking for compensation of Rs.10,66,000/- (Rupees Ten Lakh Sixty Six Thousand only) restricted to Rs.10,00,000/- (Rupees Ten Lakhs Only) for the death of one R.Vedaraj Vaira Mohan in the road accident. While he was travelling in a cycle on 15.08.2010, he was hit by the 1st respondent's vehicle due to driving in a rash and negligent manner. Due to impact of the accident, he sustained head injuries and succumbed to fatal injuries on 18.08.2010 leaving behind the petitioners/appellants herein as legal representatives. The deceased was aged about 50 years and he was working as security in M/s.Ravindra Services (P) Ltd. Chennai drawing a salary a sum of Rs.6,180/- p.m. The 1st appellant is the wife and the 2 & 3 appellants are daughters of the deceased. The 1st respondent is owner of the offending vehicle insured with the 2nd respondent.

3. The learned counsel for the appellant would submit that the Tribunal has awarded a meagre sum of Rs.7,37,720/- only as against the claim of Rs.10,00,000/- without considering the loss of breadwinner of the family and income of the deceased even though the Tribunal has confirmed that the accident was occurred due to rash and negligent driving of the 1st respondent herein. Hence, the appellant is entitled to get compensation for Rs.10,00,000/- (Rupees Ten Lakhs Only) as claimed before the Tribunal.

4. On the other hand, the learned counsel for the 2nd respondent would submit that the appellants were awarded after considering the entire oral and documentary evidence. Hence, there is no need to interfere with the award passed by the Tribunal.

5. Heard the learned counsel on both sides and perused the available materials on records.

6. The factum of the accident, the manner of the accident being rash and negligence on the part of the 1st respondent and entitlement of the claimant/appellant for compensation under Section 163A are not in dispute. The quantum of the compensation awarded by the Tribunal is alone disputed.

7. On perusal of the award, the Tribunal has confirmed that the accident had happened due to the rash and negligent driving of the 1st respondent. It is corroborated comparing the oral evidence of P.W.2 along with Ex.P1, F.I.R. , Ex.P2, copy of rough sketch, and Ex.P3, copy of charge sheet. Neither any oral evidence was let in nor documents were marked on the side of the 2nd respondent to dispute the claim of the appellants herein.

Further, the deceased is stated to have been worked as Security in Ravindra services Pvt. Ltd., and he was paid salary according to the number of days he worked. However, the Tribunal has fixed the deceased income of Rs.6,180/- for 25 days only taking into consideration of last salary slip of the July month 2010 in which month the deceased had worked only 25 days. Normally, the salary income of any person should be calculated per month only whereas the deceased earned Rs.6,180/- for 25 days, the deceased would earn Rs.7,410/- per month and rounded to 7,500/- per month. Considering the family members of the deceased, 1/3rd is to be deducted towards the personal expenses of the deceased. Thus, the loss of pecuniary benefits would arrive at Rs.7500 X 2/3 X 12 X 13 =Rs.7,80,000/- Further, if the 1st appellant lost her life partner which cannot be compensated with the value of money. Hence, this Court is inclined to increase the loss of consortium to Rs.40,000/- from Rs.25,000/- since it has been considered as meagre compensation. Further other heads have been confirmed by this Court as awarded by the Tribunal. Thus, the modified award amount are as follows:

SL. No.	Particulars	Amount (in Rs.)
1	Loss of pecuniary benefits	780,000.00
2	Loss of consortium (Wife)	40,000.00
3	Loss of Love and affection	30,000.00
4	Loss of Estate	10,000.00
5	Funeral Expenses	25,000.00
6	Transport Expenses	5,000.00
1 Amount	Tota	8,90,000.00

8.Thus, the compensation of Rs.8,90,000/- (Rupees Eight Lakh and Ninety Thousand Only) is awarded to the appellants herein with interest @ 7.5% p.a. from the date of petition till the date of deposit. Hence, the Insurance Company/2nd respondent is hereby directed to deposit the modified award amount within a period of four weeks from the date of receipt of copy of this Judgment.

9.On such deposit, the 1st appellant who is wife of the deceased is entitled to Rs.4,00,000/- and the balance amount of Rs.4,90,000/- shall be equally proportioned by two daughters after filing formal petition before the Tribunal.

10. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal is hereby set aside. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

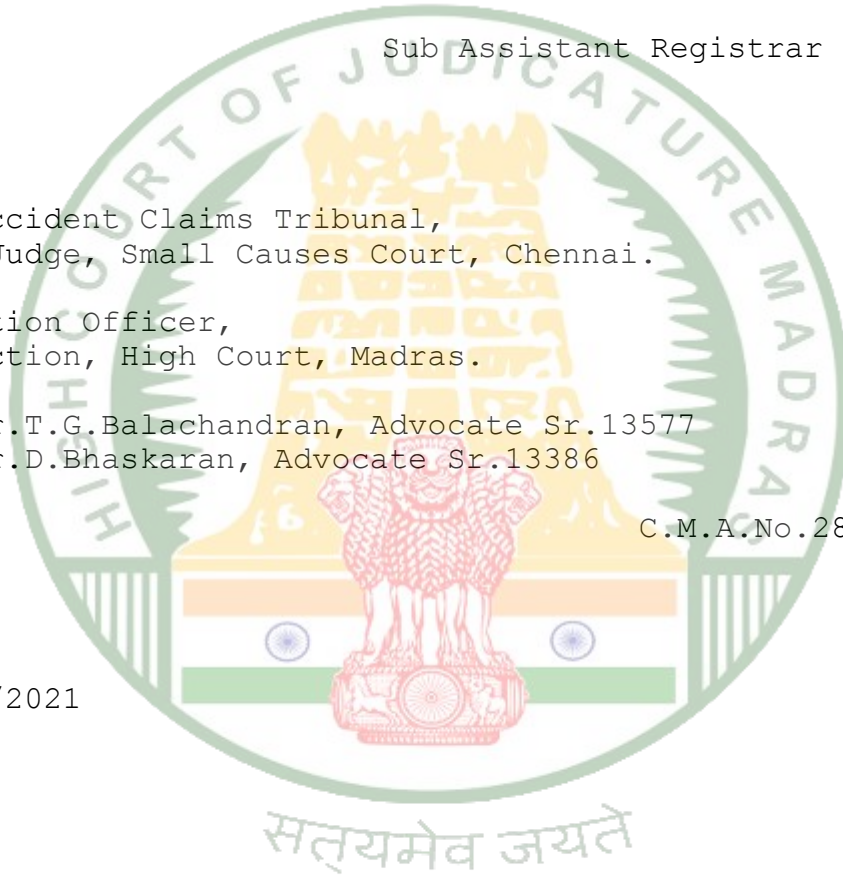
1.Motor Accident Claims Tribunal,
Chief Judge, Small Causes Court, Chennai.

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

+1cc to Mr.T.G.Balachandran, Advocate Sr.13577
+1cc to Mr.D.Bhaskaran, Advocate Sr.13386

C.M.A.No.2886 of 2014

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srg 21/01/2021



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