

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.111 of 2015
and
M.P.No.1 of 2015

The Reliance General Insurance Co. Ltd.,
No.6, VI Floor, Haddows Road,
Nungambakkam,
Chennai - 600 006. Appellant/ 3rd Respondent

vs.

1.Raji @ Rajendran
2.R.Sakila
3.R.Salsa
4.R.Lavanya
5.Mrs.Lakshmi
6.P.Durai
7.M.Srinivasan

.... Respondents/
Petitioners 1 to 5/
Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree of learned Motor Accident Claims Tribunal, Special Sub Judge II, Chennai, passed in M.C.O.P.No.2983 of 2010 dated 20.02.2014.

For Appellant : Mrs.Harini
for Mr.M.B.Gopalan

For Caveator : Mr.M.Chidambaram

JUDGMENT

These appeal has been preferred by the appellant-Insurance Company against the award of Rs.11,73,000/- granted in favour of the respondents 1 to 5 for the death of one Nagammal, aged about 35 years working as a maid, in the accident which occurred on 06.07.2010, when the Tipper lorry, insured with the appellant-Insurance Company, dashed against her.

2. The Tribunal, on contest, found that the accident occurred because of the rash and negligent driving of the Tipper lorry and awarded a sum of Rs.11,73,000/- as compensation. The said award is being challenged only on the question of quantum.

3. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents/claimants.

4. The learned counsel for the appellant would submit that the award of Rs.4,00,000/- towards loss of love and affection to the respondents 2 to 5 is on the higher side. In Paragraph No.16 of the award, the Tribunal relied upon a judgment of the Honourable Supreme Court in Rajesh & others Vs. Rajbir Singh & Others reported in 2013 (2) TN MAC 55(SC) awarded a sum of Rs.1 Lakh each to the respondents 2 to 5 towards loss of love and affection. The main point, which was considered by the Honourable Supreme Court in that case, with regard to the loss of consortium to the spouse. Merely because, love and affection has been added does not mean that Rs.1 Lakh should be awarded each to the children. Therefore, Rs.4 Lakhs awarded towards loss of love and affection to the respondents 2 to 5 is on the higher side and the same is reduced to Rs.1 Lakh, awarding Rs.25,000/- each to the respondents 2 to 5.

5. Though a sum of Rs.25,000/- awarded towards funeral expenses is adequate, no amount was awarded towards transportation. Hence, a sum of Rs.25,000/- is awarded towards transportation. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. The award of Rs.11,73,000/- is reduced to Rs.8,98,000/-. Rounded off to Rs.9 lakhs. Out of Rs.9 Lakhs, the first respondent/husband is entitled to a sum of Rs.4 Lakhs. The balance amount of Rs.5 lakhs is to be shared by the respondents 2 to 5, at the rate of Rs.1,25,000/-, equally.

7. In view of the above, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant-insurance Company is directed to deposit the entire amount along with accrued interest and costs, after adjusting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 to

5/claimants are permitted to withdraw their respective shares, after adjusting the amount if any already withdrawn, with accrued interest within a period of one week thereafter.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vsm

To

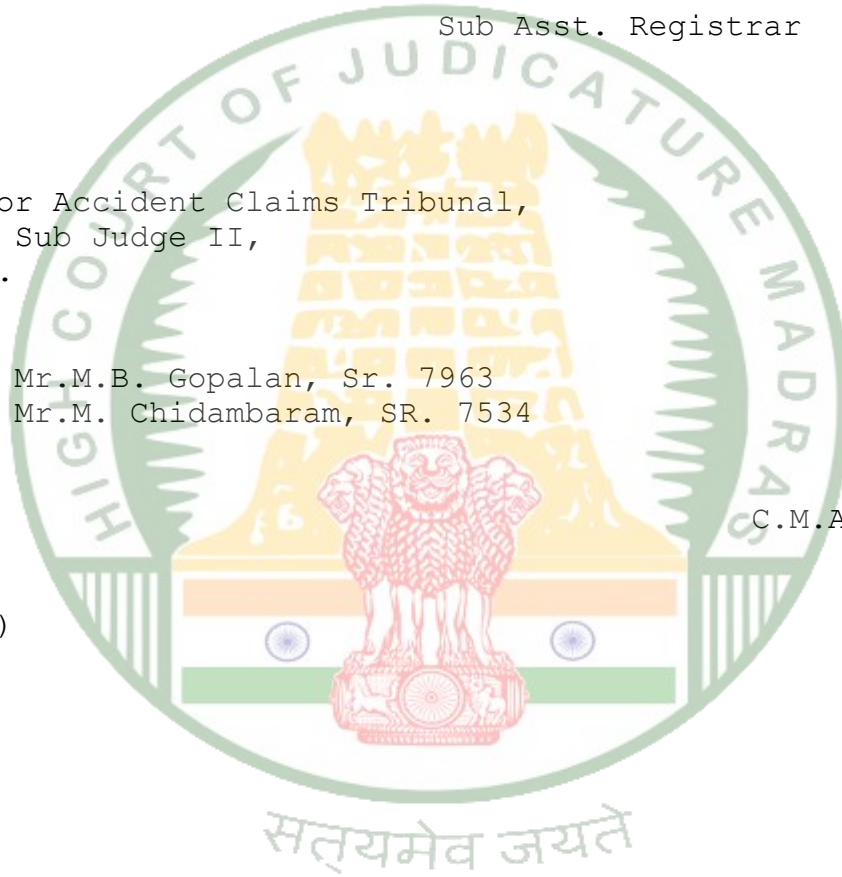
The Motor Accident Claims Tribunal,
Special Sub Judge II,
Chennai.

1 cc to Mr.M.B. Gopalan, Sr. 7963

1 cc to Mr.M. Chidambaram, SR. 7534

C.M.A.No.111 of 2015

TEJ (CO)
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