

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. No.1121 of 2015

1.S.Rose Mary
2.S.Martin Gunasekar
3.S.Selvadurai ... Appellant/Claimants

Vs.

1. Mrs Namitha Agarwal
2. H.C.Traders (Pvt.) Ltd.,
Old Door No.39, New Door No.63,
Park road, APT Road, Erode-638 003.
3. M/s ICICI Lombard General Insurance
Company Ltd., ICICI Lombard House,
No.44, Veer Savarkar marg,
Near Siddhi Vinayak Temple,
Prabhadevi, Mumbai-400 025. ... Respondents/Respondents.

Appeal is filed under 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 23.12.2014 passed in M.C.O.P.No.178 of 2014 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Erode, for enhancement of compensation.

For Appellants : Ms.V.Divia Bharathi
For respondents: Mrs.R.Srividhya for R3

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the claimants aggrieved over the quantum of Rs.4,07,600/- awarded in M.C.O.P.No.178 of 2014 filed by them for the death of the first appellant's husband viz., G.Santhana Samy, aged about 56 years, a Painter, alleged to be earning about a sum of Rs.15,000/- per month at the time of accident, which occurred on 27.02.2014.

2. Heard Ms.V.Divia Bharathi, learned counsel appearing for the appellant and Mrs.R.Srividhya, learned counsel appearing for the third respondent.

3. The Tribunal took Rs.4,500/- as monthly income and deducted 1/3 of Rs.1,725/- towards personal expenses and added 15% of Rs.675/- towards future prospects and applied the multiplier of 9 and awarded a sum of Rs.3,72,600/- towards loss of income and has also awarded a sum of Rs.10,000/- each towards loss of consortium, funeral expenses and loss of property respectively and Rs.5,000/- towards transport charges and totally awarded a sum of Rs.4,07,600/-.

4. The monthly income of Rs.4,500/- fixed by the Tribunal, that too during 2014, is on the lower side and therefore, it is just and proper to increase the monthly income to Rs.6,500/- including future prospects as per the judgment of the Honourable Supreme Court in RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS ((2013) 3 CTC 883). The proper multiplier 9 was rightly applied by the Tribunal. One third was also rightly deducted towards personal expenses and therefore, the loss of income would be $\text{Rs.}6500 - \frac{1}{3} \text{ of Rs.}2,166 = \text{Rs.}4334 \times 12 \times 11 = \text{Rs.}5,71,999/-$.

5. The Tribunal awarded only a sum of Rs.10,000/- towards loss of consortium. As per the judgment of the Honourable Supreme Court in RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS ((2013) 3 CTC 883).., at least a sum of Rs.1,00,000/- has to be awarded towards loss of consortium and hence, Rs.1,00,000/- is awarded under the said head. Rs.10,000/- towards loss of property, Rs.10,000/- towards funeral expenses and Rs.5,000/- towards transport expenses awarded by the Tribunal are very reasonable and the same are confirmed. Further, no amount was awarded towards loss of love and affection to the children. Hence, a sum of Rs.15,000/- is awarded towards loss of love and affection to the appellants 2 and 3. Totally the award amount comes to Rs.7,11,999/-, which is rounded off to Rs.7,15,000/-.

6. The appeal is partly allowed and the compensation of Rs.4,07,600/- awarded by the Tribunal is enhanced to Rs.7,15,000/- with interest at 7.5% per annum. The third respondent is directed to deposit the entire award amount along with interest and costs less the amount, if any, already deposited, within a period of four weeks from the date of receipt of copy of this order. On such deposit, the claimants are permitted to withdraw their respective share amounts as fixed by the Tribunal within a period of one week thereafter. The appellants are directed to deposit additional Court fee within a period of two weeks. No costs.

raa

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

The Special District Judge,
Motor Accidents Claims Tribunal,
Erode.

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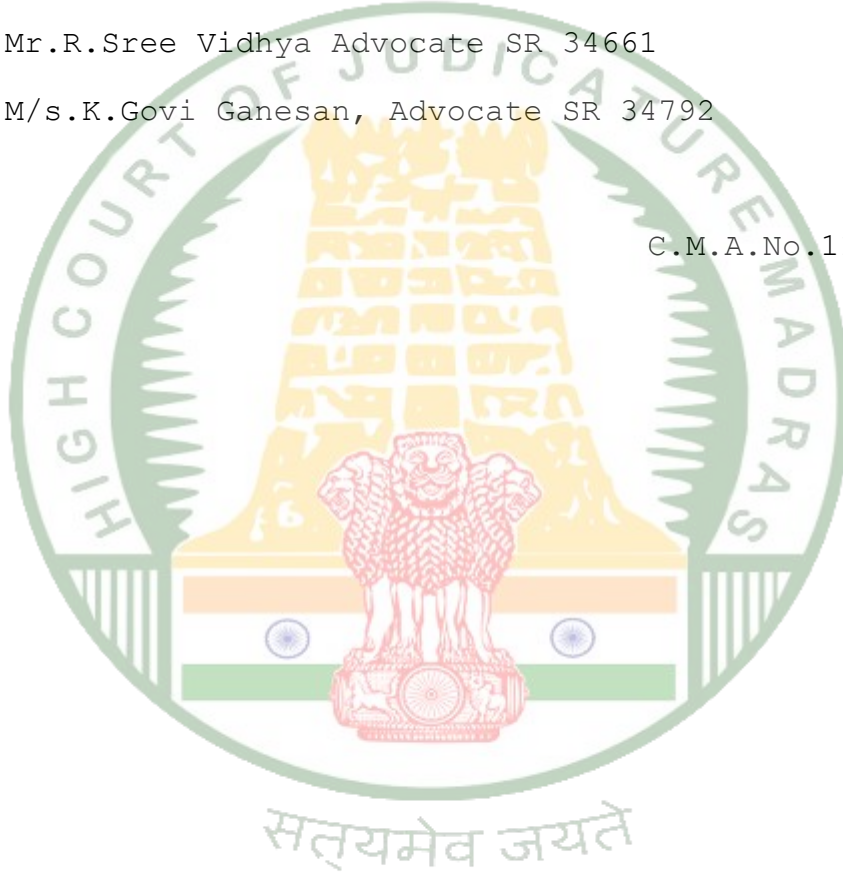
The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.R.Sree Vidhya Advocate SR 34661

+ 1 cc to M/s.K.Govi Ganesan, Advocate SR 34792

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