

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.3 of 2015

1.Gunasekaran
2.Valli
3.Ramakrishnan

...Appellants/Petitioner

Vs.

1. Settu
2. The Branch Manager,
United India Insurance Company Ltd.,
P.B.No.172, No.261, J.N.Street,
Puducherry.

...Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to set aside the award and decree dated 04.04.2013 in M.C.O.P.No.768 of 2011 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge, Pondicherry.

For Appellants : Mrs.B.Kanikkai Arul Mozhi

For Respondents : Mr.Michel Visuvasam for R2

JUDGMENT

The appeal has been preferred by the claimants not satisfied with the quantum of Rs.4,41,000/- awarded as compensation for the death of one Rajeswari, aged about 48 years, Home maker, in the accident occurred on 05.09.2011.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the 2nd respondent.

3. The Tribunal relying upon the judgment of this Court in National Insurance Co. Ltd., Vs. Subramani reported in 2013 (1) TN

MAC, 105 determined the monthly income at Rs.4,000/- and adopting multiplier 13, after deducting 1/3rd towards personal expenses, a sum of RS.4,16,000/- was awarded. Apart from that a sum of Rs.15,000/- was awarded towards loss of love and affection and Rs.10,000/- was awarded towards funeral expenses.

4. The Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459 determined a sum of Rs.6,500/- as monthly income for a vegetable vendor, who sustained injury in the accident occurred on 14.02.2008. In this case, the accident occurred on 05.09.2011. In view of that instead of Rs.6,500/-, taking the status of the deceased as a house wife, a sum of Rs.5,000/- is determined as monthly income, applying multiplier 13 and deducting 1/3rd towards personal expenses, the loss of income is calculated as follows:

$$5000-1/3 \times 12 \times 13 = 5,19,948/-.$$

5. No amount was awarded towards loss of consortium to the 1st appellant. Therefore, a sum of Rs.1 Lakh is awarded towards loss of consortium to the 1st appellant by following the judgment of the Honorable Supreme Court in Rajesh & Others Vs. Rajbir Singh & Others reported in 2013 (3) CTC 883. Rs.10,000/- awarded towards funeral expenses is hereby enhanced to Rs.15,000/-. A sum of Rs.5,000/- each awarded towards loss of love and affection to the appellants 2 and 3 are confirmed. Totally, this Court awards a sum of Rs.6,49,948/- as compensation. Rounded off to Rs.6,50,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a remains unaltered.

6. This Civil Miscellaneous Appeal is partly allowed by enhancing the compensation of Rs.4,41,000/- to Rs.6,50,000/-. No costs.

7. The 2nd respondent/Insurance Company is directed to deposit the entire amount along with 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. Out of the compensation amount of Rs.6,50,000/-, the 1st appellant is entitled to Rs.4 Lakhs and the appellants 2 and 3 are entitled to Rs.1,25,000/- each. On such deposit being made, the Tribunal is directed to deposit the entire amount in the name of the appellants, in any one of the Nationalised Bank, in interest bearing Fixed Deposit, for a period of three years, with liberty to the appellants to withdraw the quarterly interest accrued on such deposits. After three years, the appellants are permitted to withdraw their

respective shares. However, the appellant is not entitled to any interest for the delay period, by which, the appeal was not filed.

Sd/-
Deputy Registrar(J)

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Sub Assistant Registrar

vsm

To

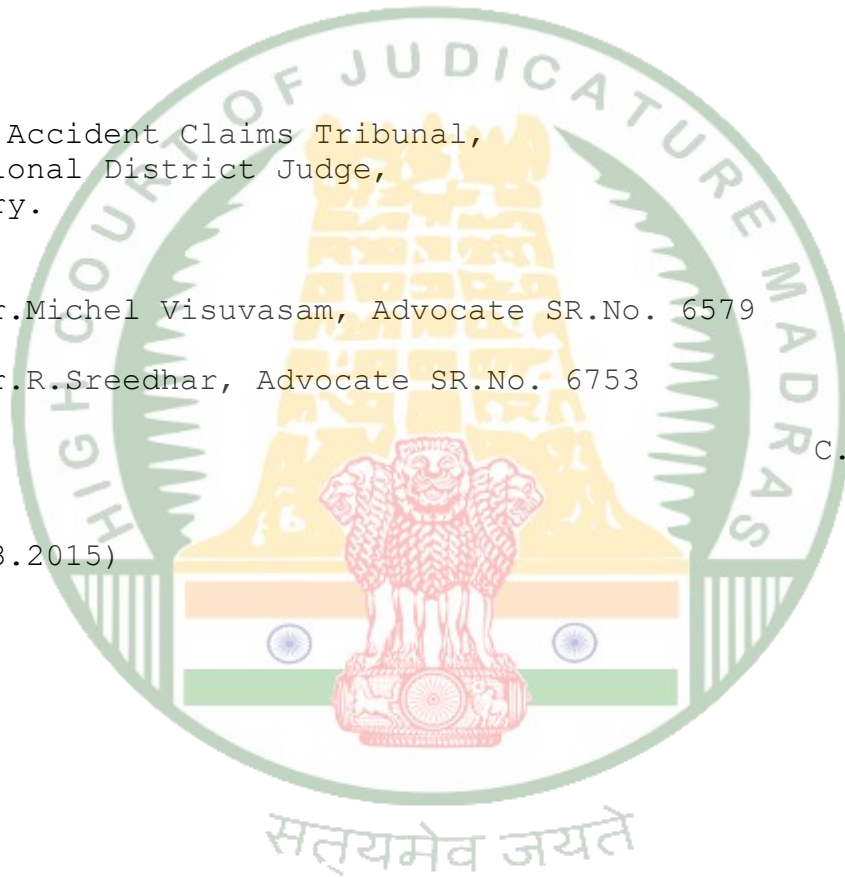
The Motor Accident Claims Tribunal,
III Additional District Judge,
Pondicherry.

1 CC to Mr.Michel Visuvasam, Advocate SR.No. 6579

1 CC to Mr.R.Sreedhar, Advocate SR.No. 6753

C.M.A.NO.3 of 2015

MSM (CO)
PSI (12.03.2015)



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