

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27.2.2015

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.375 of 2015

and

M.P.No.1 of 2015

The Branch Manager,
Royal Sundaram Alliance Insurance
Co. Ltd.,
Sundaram Towers,
No.45 & 46, Whites Road,
Chennai 600 014.

Appellant/2nd Respondent

vs.

1. Thangam
2. Annamalai
3. Minor Nithya Priyan
rep by father & next friend Vijayalakshmi

4. Valar & Co.
No.2/78, Pandran Kandu,
Konasamuthiram Via
Edapadi Taluk,
Salem District.

Respondents 1 to 3/
Petitioners/4th Respondent/1st Respondent

Civil Miscellaneous Appeal against the award passed in
M.C.O.P.No.1365 of 2008 dated 9.12.2013 on the file of the Motor
Accidents Claims Tribunal (I Additional District Judge), Salem.

For appellant : Mr.M.Krishnamurthy

For RR 1 to 3 : Mr.A.Murugan

JUDGMENT

Appeal has been preferred by the Insurance Company against the
award of Rs.8,61,000/= for the death of one Murthy son of first and
second respondents in the accident occurred on 26.4.2008 while the
deceased was riding his motorcycle which was hit by the Tipper Lorry
insured with the appellant Insurance Company.

2. Heard Mr.Krishnamurthy, learned counsel appearing for the
appellant and Mr.Murugan, learned counsel for the respondents 1 to

3/claimants. The only point to be decided is with regard to quantum. Though the respondents claimed that the deceased was working as Financial Advisor in ICICI Bank, the Tribunal, in the absence of any material evidence, rightly determined the monthly income as Rs.6000/=. Though the deceased was aged 27 years and a bachelor, 1/3 alone was deducted towards personal expenses whereas 50% is required to be deducted in case of death of bachelor. However, no future prospects has been awarded.

3. In RAJESH & OTHERS v. RAJBIR SINGH & OTHERS (2013(3) CTC 883) an increase of 50% was considered towards future prospects where the deceased was below 40 years while suggesting 30% increase for the age group of 40 to 50. In the case on hand, the deceased was 27 years at the time of accident. But, no increase in the income is considered by the Tribunal towards future prospects. Since no future prospects is awarded, that aspect is adjusted towards the difference that would arise due to the deduction of 1/3 alone towards personal expenses rather than 50% appropriate deduction that should have been made by the Tribunal.

4. The Tribunal, based on the age of the deceased viz., 27, rightly adopted the multiplier 17 and determined the loss of income as Rs.8,16,000/= (Rs.6000-1/3= 4000 x 12 x 17) and awarded a sum of Rs.5000/= towards transportation, Rs.10,000/= towards funeral expenses and Rs.30,000 towards loss of estate and in total a sum of Rs.8,61,000/= with interest at 7.5% per annum which is hereby confirmed. Though no amount was awarded towards love and affection, taking into consideration that a sum of Rs.8,61,000/= is awarded as total compensation, this court feels that no amount needs to be awarded under the head of love and affection.

5. The appellant is directed to deposit the entire amount with interest and accrued within a period of four weeks and on such deposit, the respondents, except the minor respondent, are permitted to withdraw their share of the amount as per the ratio fixed by the Tribunal and the minor's share shall be deposited in a nationalised bank till he attains majority.

In the result, the civil miscellaneous appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Motor Accidents Claims Tribunal
(I Additional District Judge), Salem.

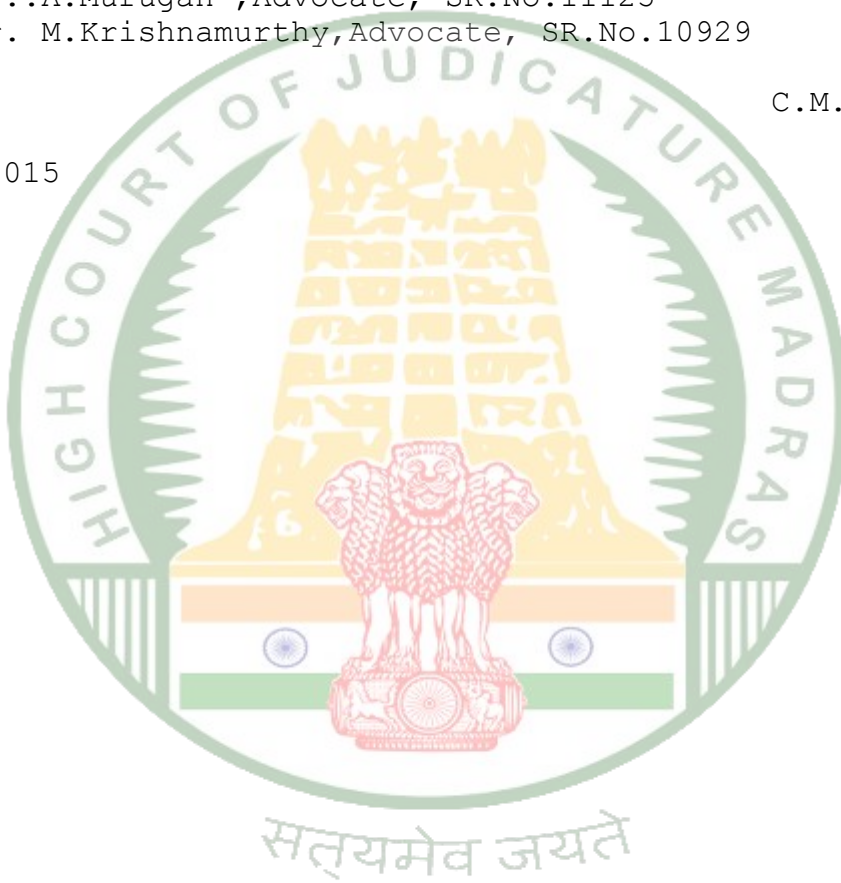
2. The Section Officer,
V.R. Section,
High Court,
Madras.

1 cc to Mr..A.Murugan ,Advocate, SR.No.11125

1 cc to Mr. M.Krishnamurthy,Advocate, SR.No.10929

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mp(co)
pmk.16.4.2015



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