

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

C O R A M

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.M.A.No.424 of 2015

and

M.P.No.1 of 2015

The Branch Manager,
M/s.New India Assurance Co.Ltd.,
Annapoorna Building,
5/1/238 Ooty Main Road,
Mettupalayam.

...Appellant/Respondent III

Vs.

1. A.Rathinaveni

2. K.Anandhan

3. A.Durga

...1st to 3rd Respondents/
Petitioners 1 to 3

4. R.Maruthachalam

5. A.Vijaya Lakshmi

...4th & 5th Respondents/
Respondents 1 & 2

PRAYER:

Civil Miscellaneous Appeal filed against the judgment and decree dated 17.06.2014, passed in M.C.O.P.No.19 of 2013, on the file of the Motor Accident Claims Tribunal (Subordinate Judge) Perundurai District.

For Appellant : Mr.J.Chandran

For Respondents 1 to 3 : Mr.R.Nalliappan

JUDGEMENT

Heard the learned counsel appearing for the appellant/Insurance Company. Notice is taken on behalf of the respondents 1 to 3/claimants/caveators. On consent, this Civil Miscellaneous Appeal is taken up for final disposal at the stage of admission itself.

2. The third respondent/Insurance Company before the Tribunal is the appellant herein. In this Appeal, the third respondent/Insurance Company has questioned the quantum of compensation awarded to the claimants, who are parents and sister of one Vivek @ Vivekumar, who was the victim of the fatal accident, involving the Vehicle, insured with the appellant herein.

3. The grievance raised herein is mainly against the award of compensation of Rs.8,64,000/- towards the loss of dependency, by fixing the notional monthly income of the deceased, who was only undergoing Diploma Course, at Rs.8,000/- per month.

4. According to the learned counsel appearing for the appellant/Insurance Company, the notional monthly income fixed for the student, without any proof for his earning as Part-time Accountant in Vegetable Wholesale Market, Mettupalayam, and as Part-time employee in Omega Business in Coimbatore, is without basis and is highly excessive.

5. The learned counsel appearing for the respondents 1 to 3/claimants by relying on the decision of the Hon'ble Apex Court in (Santosh Devi Vs. National Insurance Co.Ltd., and others) reported in (2012) 2 TNMAC 1 would argue that sum of Rs.8,000/- is fixed by applying the principles laid down by the Hon'ble Apex Court in the judgment above cited and the same is fair and reasonable.

6. The learned counsel appearing for the claimants have also cited authority of the learned Brother Judge, reported in (2015) 2 TN MAC 42 in re (Iffco-Tokio General Insurance Co.Ltd., Vs. K.Elammal and others), wherein, the learned brother Judge has, by following the Hon'ble Apex Court's judgment referred to in Para Nos.6 and 7 therein, fixed the monthly income at Rs.9,000/-, and after deducting 50% of the same towards personal expenses, taken Rs.4,500/- per month as loss of monthly income of the deceased. Following the decision of the Hon'ble Apex Court referred to in this judgment, the sum of Rs.8,000/- fixed as notional monthly income for the deceased in this case cannot be found fault with. Correspondingly, the award of compensation of Rs.8,64,000/- for loss of dependency appears to be neither excessive nor disproportionate. As such, this Court finds no reason to interfere with the same.

7. In the result, the Civil Miscellaneous Appeal stands dismissed. The appellant/Insurance Company is directed to deposit entire award amount with proportionate accrued interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the amount as apportioned by the Tribunal, by filing necessary Cheque Petition. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sd

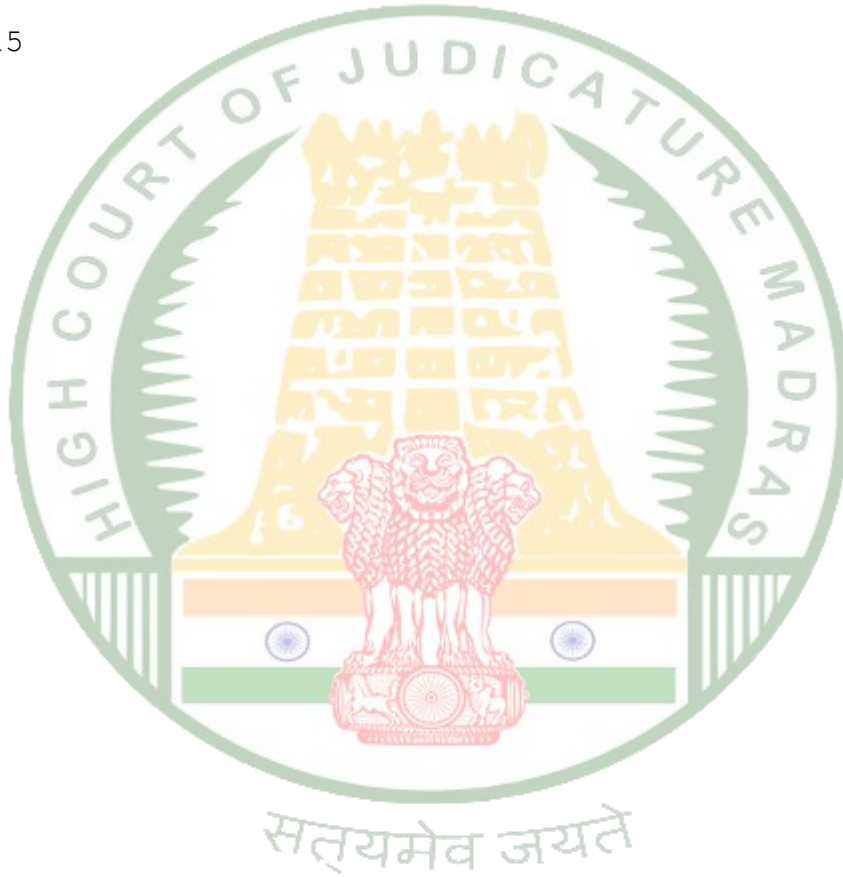
To

The Motor Accident Claims Tribunal,
Subordinate Judge, Perundurai.

+ 1 cc to Mr.R. Nalliyappan, Advocate Sr.40777
+ 1 cc to Mr.J. Chendran, Advocate Sr.41053

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