

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 562 of 2015

&

M.P. No. 1 of 2015

M/s. Royal Sundaram Alliance

Insurance Co. Ltd.,
Corporate Office, Sundaram Towers,
No.44 & 45, Whites Road,
Chennai - 600 014.

...Appellant/Respondent-2

Vs.

1. Mr. Suresh
2. Shoba
3. V. Ramesh

...Respondents/Claimants 1& 2 &
Respondent 1.

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 28.08.2014 passed in M.C.O.P.No. 286 of 2013 by the Motor Accidents Claims Tribunal (Special District Court), Krishnagiri.

For Appellant :: Mrs.Harini for
Mr.N. Vijayaraghavan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs.5,90,000/- passed by the Motor Accidents Claims Tribunal (Special District Court), Krishnagiri, for the death of one, Minor Ranjith, aged about 10 years, son of respondents 1 and 2 herein, in the accident, which occurred on 21.08.2012.

2. Heard Mrs. Harini, learned counsel for the appellant, who would submit that the sum of Rs.3,60,000/- awarded towards "Loss of Income" and the sum of Rs.2 lakhs towards "Loss of love and affection" are on the higher side and the award has to be set aside as a minor cannot be an earning member.

3. However, the Honourable Apex Court, in the judgment rendered in Kishan Gopal & another vs. Lala & others reported in 2013 (2) TN MAC 358 (SC), took Rs. 30,000/- as annual notional income

instead of Rs.15,000/- as per the II Schedule to the Motor Vehicles Act, 1988 and applying multiplier, as per the age of the mother of the victim in that case, awarded Rs.4,50,000/- towards "Loss of Income" and a further sum of Rs.50,000/- towards "Conventional Damages", amounting to Rs.5 lakhs in all. Applying the said judgment to the present case, the multiplier to be adopted, as per the age of the mother, namely, 32 years, would be 16. Therefore, "Loss of Income", taking the annual notional income as Rs.30,000/- and adopting multiplier 16 would be,

Loss of Income :: Rs.30,000 x 16 = Rs.4,80,000/-

If a sum of Rs.50,000/- is awarded towards "Conventional Damages". the total compensation payable would be Rs.5,30,000/-. But, the Tribunal has awarded only Rs.60,000/- in excess, since the compensation granted by the Tribunal is Rs.5,90,000/-. The said sum of Rs.60,000/- cannot be said to be on the higher side as the claimants lost their only son in the accident in question. Therefore, on that ground, this Court is not inclined to set aside the award passed by the Tribunal as the Tribunal has passed the award in substantial compliance of the judgment rendered in Kishan Gopal & another vs. Lala & others reported in 2013 (2) TN MAC 358 (SC) and the same is sustained. The rate of interest awarded by the Tribunal @ 7.5% per annum also remains intact.

4. The appellant Insurance Company is directed to deposit the entire award amount, if not already deposited, with accrued interest and costs, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw their respective shares, as per the ratio fixed by the Tribunal within a period of one week thereafter.

5. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Connected M.P. is closed.

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s/d-

Assistant Registrar(V)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
(Special District Judge)
Krishnagiri.

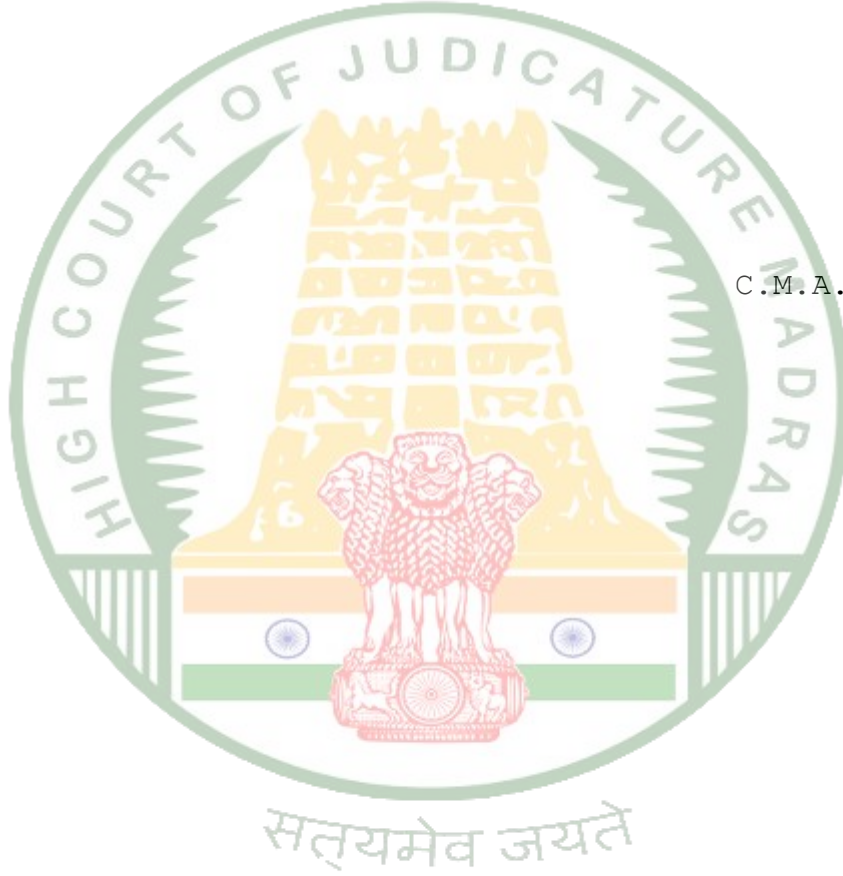
Copy to:

1. Mr.Suresh,
2. Mrs.Shoba

Both are residing at
Door No.4/2, Matham Village & Post,
SIPCOT, Hosur, Krishnagiri District.

+ 1 cc to Mr.N.Vijayaraghavan, Advocate SR 17189

ksj(co)
prk17/4



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