

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.870 of 2011

ICICI Lombard General
Insurance Company Ltd.,
Mumbai 400 034

..Appellant/3RD Respondent

-Vs-

1. Aruchamy
S/o Marappa Gounder

2. Saraswathi
W/o Aruchamy

3. Rajamani
W/o Kandasamy

4. Pushpaveni
W/o Palanisamy

5. Kalamani
D/o Aruchamy

6. P.Kesavan

7. R.Rajadurai
(Respondents 6 & 7 were set ex parte
in the lower Court)

.. Respondents/Petitioners/
Ist and Second Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.11.2010 made in M.C.O.P.No.4 of 2009 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Udumalpet.

For Appellant :: Mrs.R.Sreevidhya

For Respondents :: Mr.M.Parthasarathy for R1 to R5

JUDGMENT

This civil miscellaneous appeal has been directed against the impugned judgment and decree passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Udumalpet in M.C.O.P.No.4 of 2009 dated 18.11.2010, awarding a sum of Rs.6,00,000/- as against the claim of Rs.20,00,000/- for the loss of life of the bread winner aged about 25 years on the date of accident i.e., on 21.10.2008.

2. Learned counsel for the appellant, aggrieved by the impugned award awarding a sum of Rs.6,00,000/- together with interest at the rate of 7.5% per annum, submitted that the Tribunal has wrongly fixed Rs.5,000/- as the notional monthly income of the deceased, in the absence of any proof having been produced in support of the same. Secondly, a wrong multiplier of 18 has been adopted on the basis of the age of the deceased, without adopting the age of the dependants viz., the mother in the present case.

3. But this Court is not able to agree with either of the contentions. The reason is that the award of the Tribunal for a sum of Rs.6,00,000/- as against the claim of Rs.20,00,000/- for the loss of life of the sole bread winner of the claimants' family was passed on 18.11.2010, in respect of the accident that took place on 21.10.2008, on which date the principle to adopt 18 as the multiplier was not available. Secondly the Tribunal, considering the fact that the deceased, aged about 25 years, passed away in the unfortunate accident that took place on 21.10.2008 on account of the rash and negligent driving by the driver of the offending vehicle, has fixed Rs.5,000/- as the notional monthly income. Further the Tribunal, after fixing Rs.5,000/- as the notional monthly income, had deducted 50% of the said income towards the personal expenses of the deceased, since he was a bachelor on the date of accident, which is in full compliance with the recent decision of the Apex Court in Sarla Verma's case reported in 2009 (2) TN MAC 1 (SC). Therefore, this Court is not able to see any infirmity or illegality in the impugned award. Accordingly, the civil miscellaneous appeal fails and it is dismissed. Consequently, M.P.Nos.1 & 2 of 2011 are closed. No costs. It is brought to the notice of the Court that the entire award amount including interest was already deposited before the Tribunal and subsequently the claimants had also withdrawn 50% of the amount. Now the respondents/claimants are permitted to withdraw the balance 50% of the amount lying in deposit along with the accrued interest thereon by moving appropriate application before the Tribunal.

Ss

Sd/-

Assistant Registrar (CS-IV)

/True Copy/

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal
Subordinate Judge, Udumalpet

+1 C.C. To MR.R.Sreevidhya, Advocate in SR.NO.66351

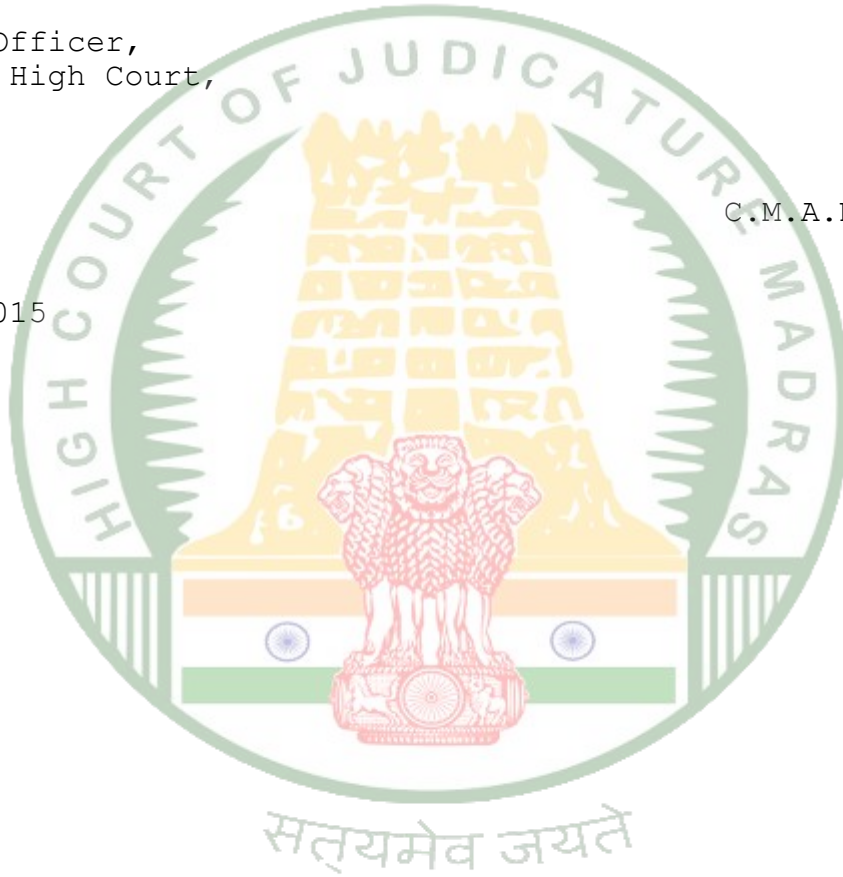
+1 C.C. TO MR.M.Parthasarathy, Advocate in SR.NO.66119

Copy to :

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

C.M.A.No.870 of 2011

AK(CO)
sd : 29/12/2015



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