

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.3411 of 2014

1.Bharathi
2.Minor Anjali Devi
Rep. By next friend mother
Bharathi, the 1st appellant
3.Biruvamma
4.B.Mottappa ... Appellants/ Petitioners

Vs.

1.S.G.Venkatathnamma
2.Baja Allianz General
Insurance Company Ltd.,
G.E.Plaza,
Airport Road,
Yelwada, Pune,
Maharashtra State. ... Respondents/ Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and award dated 05.09.2014 made in M.C.O.P.No.464 of 2010 on the file of the Motor Accident Claims Tribunal (Additional District Court), Krishnagiri.

For Appellants : Mr.P.Mani

For Respondents : Mr.Srinivasa Ramalingam for R2

JUDGMENT

The claimants are before this Court aggrieved over the quantum of Rs.2,64,000/- awarded for the death of one Keerappa, who died in the accident on 10.02.2009, aged about 33 years, a labourer, while he was riding his two wheeler behind a lorry and due to sudden application of break, the two wheeler dashed against the lorry. Hence, the claim petition was filed under Section 163-A of the Motor Vehicles Act. After enquiry, the Tribunal awarded a sum of Rs.2,64,000/- as compensation. Therefore, the claimants are come before this Court by way of this appeal.

2. Heard Mr.P.Mani, learned counsel appearing for the appellants and Mr.Srinivasa Ramalingam, learned counsel appearing for the second respondent/Insurance Company.

3. Since the claim petition has been filed under Section 163-A of the Motor Vehicles Act, the question of negligence need not be gone into and the only point is whether the quantum of compensation awarded by the Tribunal is adequate or not.

4. As per the structured formula stated in Second Scheduled appended to the Motor Vehicles Act under Section 163-A, the maximum amount that can be determined as notional annual income is at Rs.40,000/-. However, in this case, the Tribunal determined only a sum of Rs.2,000/- as the monthly income and determined the loss of income at Rs.2,64,000/- adopting multiplier 17 and deducting $1/3^{\text{rd}}$ towards personal expenses. When the structure formula speaks about Rs.40,000/- for earning member that too a 33 year old labourer, the Tribunal should have taken a sum of Rs.40,000/- as notional annual income and adopted multiplier 17. Therefore, the calculation made by the Tribunal under the head of loss of income is set aside. This Court takes a sum of Rs.40,000/- as notional annual income and adopting multiplier 17, the loss of income of the deceased would be Rs.6,80,000/- (Rs.40,000X17). $1/3^{\text{rd}}$ amount is required to be deducted towards personal expenses of the deceased and the loss of income is determined as follows:

$$40,000 \times 17 - 1/3 = 4,53,333/-$$

5. Rs.5,000/- awarded by the Tribunal towards loss of consortium is very reasonable and the same is confirmed. Rs.3,000/- awarded by the Tribunal towards funeral expenses is hereby reduced to Rs.2,000/-. Since no amount was awarded towards loss of estate, a sum of Rs.2,500/- is hereby awarded. Totally this Court awards a sum of Rs.4,62,833/- as compensation rounded off to Rs.4,65,000/-. 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.2,64,000/- to Rs.4,65,000/-. No costs.

7. The second respondent/Insurance Company is directed to deposit the entire amount, as per the modified award passed by this Court, less the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellants 1, 3 and 4/claimants is permitted to withdraw their respective shares, as apportioned by the Tribunal, less the amount if any already withdrawn, within one week thereafter. The share of the minors viz., 2nd appellant is concerned, the same shall be deposited in any one of the

Nationalised Banks in an interest bearing Fixed Deposit, initially for a period of three years and renewable periodically, till she attains majority. The 1st appellant is permitted to withdraw interest accruing on such deposit once in three months.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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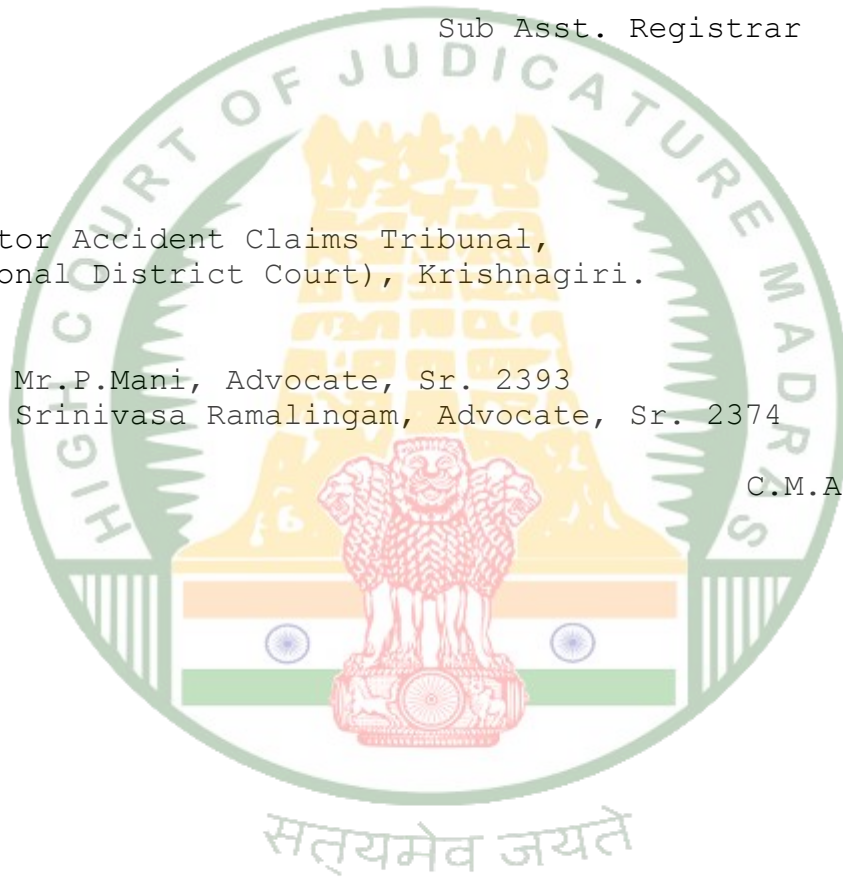
The Motor Accident Claims Tribunal,
(Additional District Court), Krishnagiri.

1 cc to Mr.P.Mani, Advocate, Sr. 2393

1 cc to Srinivasa Ramalingam, Advocate, Sr. 2374

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