

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.6.2015

CORAM

THE HONBLE MR.JUSTICE V.RAMASUBRAMANIAN  
and  
THE HON'BLE MR.JUSTICE T.MATHIVANAN

Civil Miscellaneous Appeal Nos.3416 of 2014 & 206 of 2015

R.Thangammal

R.Alagarswamy

R.Pothum Ponnu

K.Perumal Konar

P.Chinnammal

S.Shanmughavalli

A.Renuka

P.Sakthivel

Appellants in CMA

No.3416/14 &

Respondents in

.. CMA No.206/15

..R8 in CMA.206/15

[R.Alagarswamy was declared as Major  
and R.Thangammal discharged from  
guardianship vide order dated 23.6.2015  
made in MP.Nos.1 & 2/15 in CMA.No.3416/15  
made in MP.Nos.3 & 4/15 in CMA.No.206/15.

Vs.

P.Sakthivel

(set ex parte in Trial Court)

ICICI Lombard General Insurance Co. Ltd.

Chotabhai Towers

No.140, Nungambakkam High Road

Chennai 600 006.

Respondent in

CMA No.3416/14

& Appellant in

.. CMA No.206/15

Appeals under against the order dated 05.8.2014 made in MACTOP  
No.3298 of 2013 on the file of the II Judge, Motor Accidents Claims  
Tribunal (Court of Small Causes), Chennai.

For Appellants/  
claimants : Ms.P.T.Salim Fathima  
For Respondent/  
Insurance Co. : Ms.R.Sree Vidhya

J U D G M E N T

(Delivered by V.Ramasubramanian,J.)

These appeals are by both the claimants as well as by the  
Insurance Company, questioning the quantum of the award made by the  
Motor Accidents Claims Tribunal.

2. Heard Ms.P.T.Salim Fathima, learned counsel for the claimants and Ms.R.Sree Vidhya, learned counsel for the Insurance Company.

3. In a road traffic accident that happened on 20.4.2013, the husband of the first appellant herein died. The appellants made a claim in O.P.No.3298 of 2013. By an award passed on 05.8.2014, the Tribunal granted a compensation of Rs.12,25,400/-. Seeking enhancement of compensation, the claimants have come up with one appeal. Questioning the quantum, the Insurance Company has come up with another appeal.

4. Since the dispute is only with regard to quantum, we confine our discussion only to the parameters.

5. Though it was claimed in the claim petition that the deceased was aged 47 years, there was no proof to show the age. Therefore, the Tribunal took the age as 55 on the basis of the post mortem certificate. Since that was the only evidence available on record, the same cannot be interfered with.

6. The monthly income of the deceased was claimed to be Rs.20,000/-. But, the fact remains that the deceased was an agricultural labourer and a mason. Therefore, in the absence of any other evidence to show the income, the Tribunal took the income as Rs.9,000/-. It is true that in such cases, the Tribunal should have taken the minimum wages paid by the Government through the District Collectors and the Public Works Department. But, that was not done. At least the Tribunal should have taken the other cases, where the deceased are only daily wage earners, the total wages paid by the Public Works Department for the persons employed in the Nominal Muster Roll.

7. However, since there is no evidence on record from both sides, we cannot interfere with the quantum of monthly income fixed.

8. Once the above parameters are fixed, the application of multiplier of 11, the grant of Rs.25,000/- towards funeral expenses and the grant of Rs.1,50,000/- towards love and affection for about six dependants cannot be said to be of a higher order.

9. Therefore, we find no reasons to interfere with the award of the Tribunal. Hence, both the appeals are dismissed. No costs. Consequently, M.P.Nos.1 and 2 of 2015 in CMA No.206 of 2015 are also dismissed.

Sd/-

Assistant Registrar

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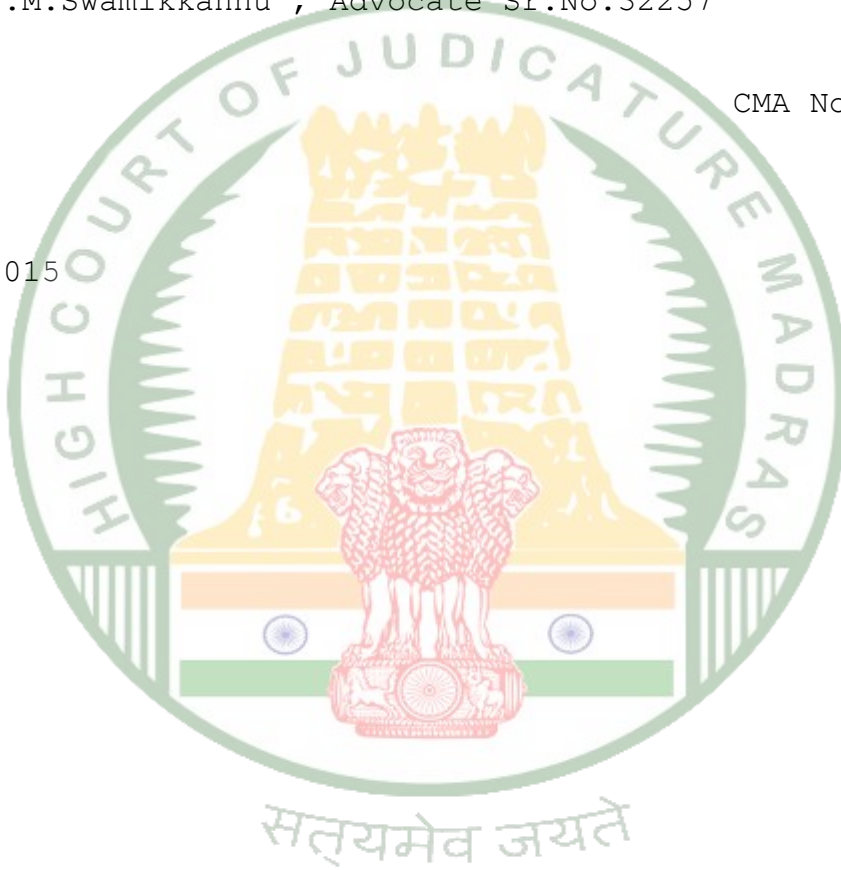
1.The II Judge,  
Motor Accidents Claims Tribunal,  
(Court of Small Causes)  
Chennai.

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

1 cc to Mr.M.Swamikkannu , Advocate Sr.No.32257

CMA Nos.3416 of 2014 &  
206 of 2015.

rv(co)  
pmk.22.7.2015



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