

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2015

CORAM :

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A. No. 1765 of 2009

The New India Assurance Co. Ltd.,  
Branch Office  
No.12 New Hospital Road  
Gobichettipalayam  
Erode District.

... Appellant

vs.

1. Valarmathi
2. Minor Dhayananth  
rep. by his mother Valarmathi
3. Angathal

... Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment made in M.C.O.P No.536 of 2008 dated 20.01.2009 on the file of the Motor Accidents Claims Tribunal (Additional District Judge cum Fast Track Court No.3), Dharapuram.

For appellant : Mr. C. Ramesh Babu

For respondents : Mr. S. Kaithamalai Kumaran

JUDGMENT

The second respondent Insurer of the offending vehicle is the appellant herein.

2. The appeal is filed against the award of compensation of Rs.9,90,000/- to the wife, minor son and mother of one Palanisamy, who is the victim of the fatal accident, involving the vehicle belonging to one G. Sivakumar, the first respondent and insured with the appellant Insurance company, who is the second respondent before the Tribunal. The total compensation of Rs.9,90,000/- is awarded under the following heads:

| Sl. No. | Heads                                                           | Amount granted  |
|---------|-----------------------------------------------------------------|-----------------|
| 1       | Loss of dependency to the family                                | Rs. 9,36,000.00 |
| 2.      | Consortium to the 1 <sup>st</sup> claimant/ wife                | Rs. 22,000.00   |
| 3.      | Loss of love and affection to the 2 <sup>nd</sup> claimant/ son | Rs. 10,000.00   |
| 4.      | Loss of estate                                                  | Rs. 15,000.00   |
| 5.      | Funeral expenses                                                | Rs. 7,000.00    |
|         | Total                                                           | Rs. 9,90,000.00 |

3. The grievance raised in this appeal is mainly by questioning the quantum of Rs.9,36,000/- awarded under the head of loss of dependency. The Tribunal has, on the basis of the averments stated in the claim petition and the oral evidence of the first claimant as PW-1 and on the basis of Ex.P7 & P8 bills, P9 to P11 bill books relating to the power loom business and Exh.P14 Chitta Adangal and P15 to P19 Title Deeds of the agricultural lands owned by the deceased, fixed the income of the deceased at Rs.3500/- from power loom business and Rs.2500/- from agriculture and Rs.1800/- towards future income and thus fixed the total monthly income of the deceased at Rs.7,800/-. After deducting 1/3 of the same i.e. Rs.2,600/- towards his personal expenses, the monthly dependency of the claimants is taken as Rs.5,200/- per month and Rs.62,400/- per annum and by adopting the multiplier 15, the Tribunal arrived at a sum of Rs.9,36,000/- towards loss of dependency. The sum so arrived at by the Tribunal, in my considered view, is very fair and reasonable and call for no interference. As such, the appellant is dis-entitled to get any order in this appeal.

4. In the result, the Civil Miscellaneous Appeal is dismissed. The Insurance Company is directed to deposit the balance award amount, with interest, after deducting the amount already deposited before the Tribunal, within eight weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 & 3/major claimants are permitted to withdraw their entire share of the award amount, with the accrued interest and costs, on due application. The Tribunal is directed to invest the award amount due to minor 2<sup>nd</sup> respondent in any one of the Nationalized Banks in a fixed deposit scheme till he attains majority and the 1<sup>st</sup> respondent mother being the natural guardian, is permitted to withdraw the

accrued interest once in three months directly from the Bank, for the upkeep of the minor. No costs.

Sd/-  
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

avr

To

1. The Motor Accident Claims Tribunal  
Additional District Judge cum  
Fast Track Court No.3)  
Dharapuram.

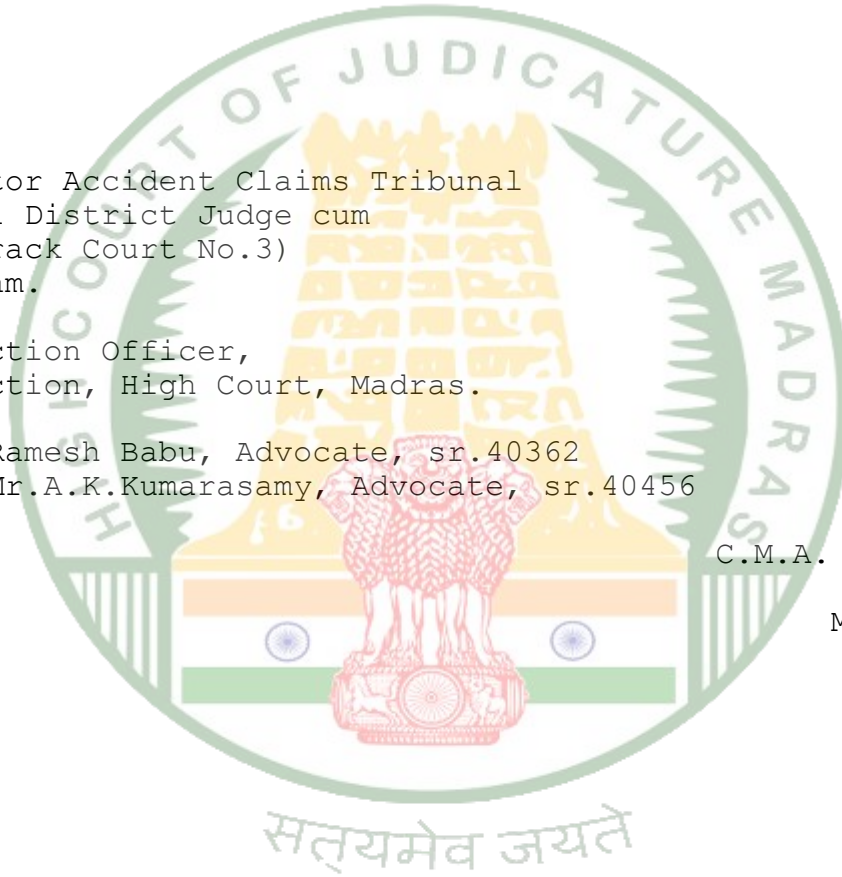
2. The Section Officer,  
V.R.Section, High Court, Madras.

+1 cc to Ramesh Babu, Advocate, sr.40362

+1 cc to Mr.A.K.Kumarasamy, Advocate, sr.40456

C.M.A. No. 1765 of 2009  
and  
M.P. No.1 of 2009

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