

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. 2048 of 2009

The National Insurance Co. Ltd.,
1272, Mettur Road
Erode District.

... Appellant/2nd Defendant

Vs.

1. Palaniammal
2. Minor Gopinath
rep. by his mother Palaniammal ... Respondents 1 & 2/Claimants
3. Ganga Enterprises
310, Chennimalai Road
Erode. ... 3rd Respondent/2nd Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 30.10.2008 made in O.P No.126 of 2007 on the file of the Motor Accidents Claims Tribunal (Sub Court), Sankari.

For appellant : Mr. D. Bhaskaran

For respondents : Mr. C. Kulanthaivel for R1
R-3 - No Appearance

JUDGMENT

The second respondent Insurer before the Tribunal is the appellant herein.

2. The present appeal is filed against the award of compensation of Rs.6,40,000/- to the claimants, who are the widow, minor son and mother of one Kandasamy @ Muthusamy, who is the victim of the fatal

accident occurred due to the rash and negligent driving of the lorry belonging to one Ganga Enterprises, who is the third respondent herein and insured with the appellant Insurance Company. The challenge in this appeal is mainly on the quantum of the compensation awarded by the Tribunal. The Tribunal has awarded the compensation under the following heads :

Sl. No.	Heads	Amount granted
1	Loss of dependency	Rs. 6,00,000.00
2.	Loss of Consortium to the widow	Rs. 20,000.00
3.	Loss of love and affection to the 2 nd petitioner	Rs. 10,000.00
4.	Funeral Expenses	Rs. 10,000.00
	Total	Rs. 6,40,000.00

3. The learned counsel for the appellant would contend that considering the monthly income of the deceased as Rs.5000/-, from agriculture and mason and other corresponding work, the amount awarded towards loss of dependency is highly excessive and without any basis. Whereas learned counsel for the respondent has drawn the attention of this court to the discussion held in paragraph 10 and 11 of the impugned award regarding the probable income derived by the deceased from agriculture and mason work. The trial court has, in the aforesaid paragraphs, duly appreciated the income aspect and arrived at a very reasonable conclusion that the monthly income of the deceased is Rs.5000/- and accordingly fixed the annual income at Rs.60,000/- and after deducting 1/3rd of the same, fixed the loss of income of the claimant at Rs.40,000/- per annum and adopting the multiplier 15 determined the loss of dependency at Rs.6,00,000/-, which is very fair and reasonable compensation for the loss sustained by the claimants. When that is so, there is no reason made out to interfere with the impugned award and hence the same stands confirmed.

4. In the result, the Civil Miscellaneous Appeal stands dismissed. The appellant Insurance Company is directed to deposit the entire 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 first respondent/ claimant is permitted to withdraw her entire share of the

award amount, with the accrued interest and costs, on due cheque application. The second claimant, being a minor, his share of the compensation shall be deposited in any one of the nationalised banks till he attains majority and the first claimant/ mother, is permitted to withdraw the interest and cost accrued so far and future interest accrued on bank deposit, once in three months, directly from the Bank. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

avr

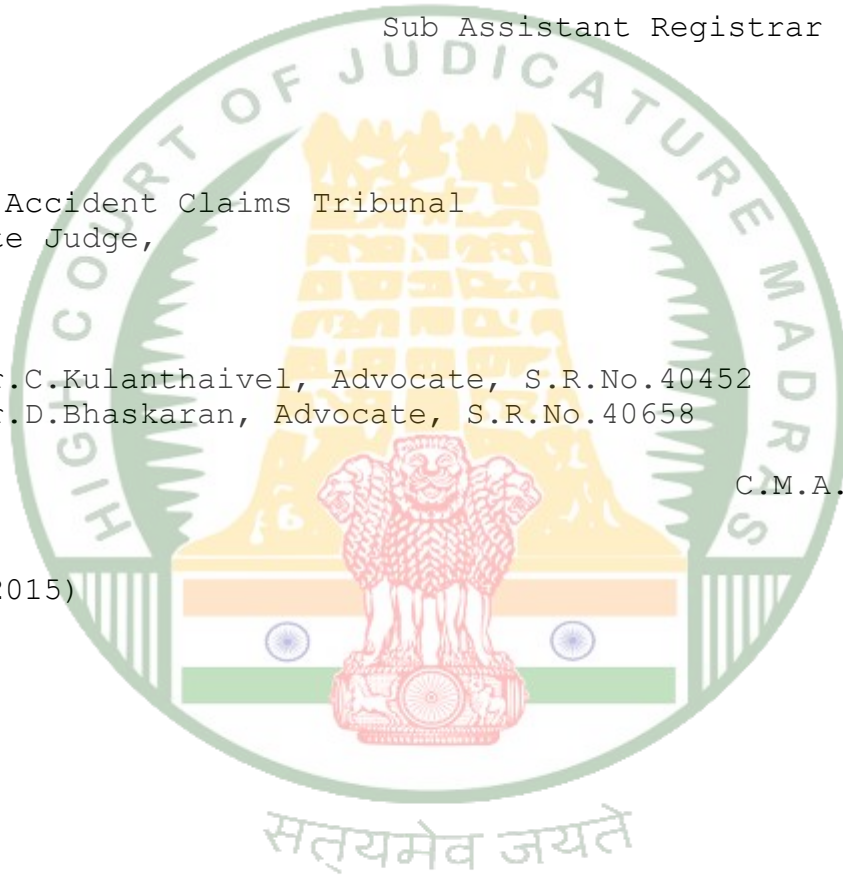
To

The Motor Accident Claims Tribunal
Subordinate Judge,
Sankari.

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.40452
+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.40658

C.M.A. No.2048 of 2009

VD(CO)
CA(14/10/2015)



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