

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2015

CORAM

THE HONOURABLE Mr. JUSTICE N. KIRUBAKARAN

C.M.A.No.2730 of 2013

1.S.Kumar

2.K.Ramya

..Appellants/Petitioners

/vs/

1.P.Rajagopal

2.The Divisional Manager,
New India Assurance Company Ltd.,
Divisional Office,
Officer Line,
Vellore.

3.V.Thayumanavan

4.ICICI Lombard General Insurance Co.Ltd.,
No.140, Nungambakkam High Road,
Third Floor,Chottabai Centre,
Chennai.

..Respondents/Respondents

Prayer

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the order and decree dated 01.02.2013 made in M.C.O.P.No.81/2011 on the file of Motor Accident Claims Tribunal, I Additional District Judge, Vellore.

For Appellants :Mr.A.Gouthaman

For Respondents:Mr.S.Sivashankar for
M/s Sarvabhauman Asso. for R1
Mr.R.Neethiperumal for R2

JUDGMENT

The appeal has been preferred by the claimants against the award of Rs.24,61,760/- passed by the Tribunal for the death of the first appellant's wife K.Vijayalakshmi, 50 years old, a P.G. Assistant in Commerce at E.V.R.Nagammai Government Girls Higher Secondary School, Vellore, who died in the accident occurred on 25.10.2007.

2. Heard Mr.A.Gouthaman, learned counsel appearing for the appellants and Mr.S.Sivasankar representing M/s Sarvabhuman Associates, learned counsel appearing for the first respondent and Mr.R.Neethiperumal, learned counsel appearing for the second respondent and others.

3. The only question is to be decided with regard to the quantum of compensation and there is no appeal by the Insurance Company.

4. The learned counsel appearing for the appellants would point out that the deceased K.Vijayalakshmi was working as P.G. Assistant in Commerce in E.V.R.Nagammai Government Girls Higher Secondary School, Vellore,. As per Ex.P14-Last Drawn Pay Certificate and she was earning about Rs.26,648/- per month. However, the Tribunal took only a sum of Rs.18,138/- as monthly salary, after the deduction made by the authorities. According to the learned counsel appearing for the appellants, the deduction should not have been made.

5. However, the learned counsel appearing for the Insurance Company would submit that the award passed by the Tribunal is very reasonable.

6. It is very clear that the deceased was working as P.G. Assistant in Commerce in E.V.R.Nagammai Government Girls Higher Secondary School, Vellore and earned a sum of Rs.26,648/- per month as proved by Ex.P14-Last Drawn Pay Certificate. When the salary is Rs.26,648/-, the Tribunal should not have considered the deduction for various reasons. The deduction would be made for borrowing and the same cannot be taken into account. Therefore, a sum of Rs.26,648/- is taken as monthly income and 1/3rd amount is deducted towards personal expenses. As the deceased was aged about 50 years, the Tribunal rightly adopted the multiplier 13. Therefore, the loss of income is calculated as follows:

$$26,648.00 - 1/3 \times 12 \times 13 = 27,71,496/-$$

7. In view of the award of Rs.27,71,496/- towards loss of income, the other heads amount are not varied and hence, the other heads are hereby confirmed. Totally, a sum of Rs. 33,46,901/-, rounded off Rs.33,50,000/- is awarded as compensation. The interest at the rate of 7.5% p.a awarded by the Tribunal stands confirmed.

8. In the result, the civil miscellaneous appeal is allowed enhancing the compensation to a sum of Rs.33,50,000/- along with interest at the rate of 7.5% p.a. from the date of petition, till the date of deposit. The second respondent/Insurance company is directed to deposit the enhanced award amount along with interest and costs, after deducting the amount if any already deposited before the Tribunal, within a period of four weeks, from the date of receipt of copy of this order. On such deposit being made, the claimants are permitted to withdraw their respective

share amount as per the ratio fixed by the Tribunal, after deducting the amount already withdrawn if any. The appellant is directed to pay the requisite court fee for the enhanced award amount, within a period of two weeks from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ari

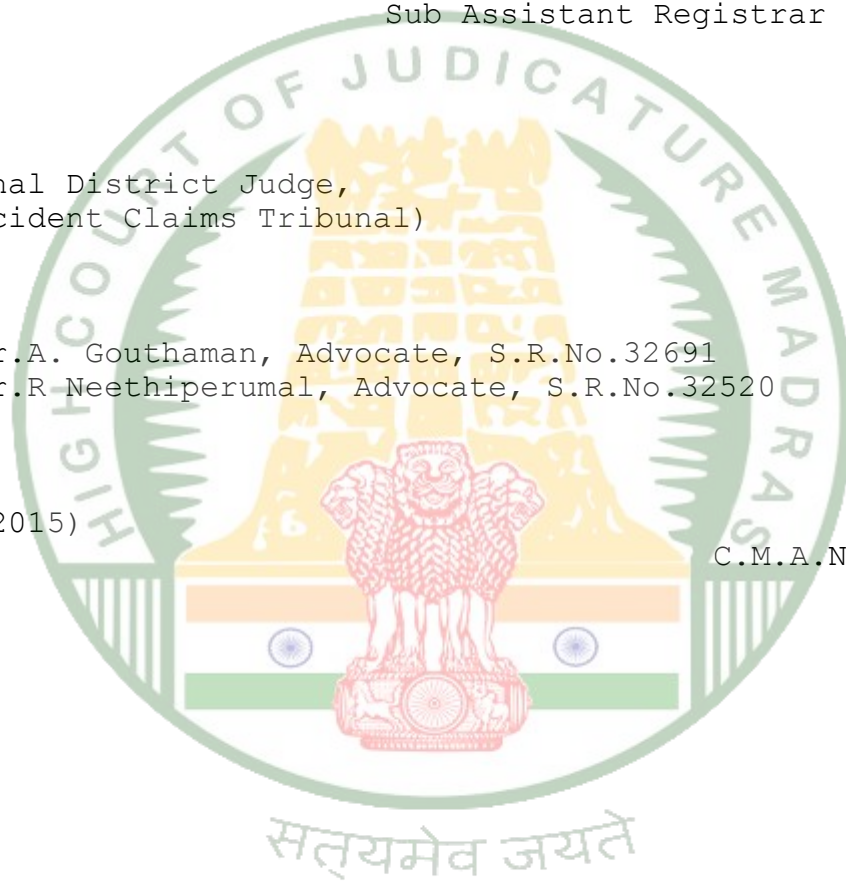
To

I Additional District Judge,
(Motor Accident Claims Tribunal)
Vellore.

+1cc to Mr.A. Gouthaman, Advocate, S.R.No.32691
+1cc to Mr.R Neethiperumal, Advocate, S.R.No.32520

TEJ(CO)
EU(24/07/2015)

C.M.A.No.2730 of 2013



WEB COPY