

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN
C.M.A.No.1123 of 2011
and M.P.No.1 of 2011

The New India Assurance Company Ltd.,
Vasavi Building, Big Street,
Thiruvannamalai.

.. Appellant

.Vs.

- 1.Ayyadurai (died)
- 2.Jegadeesswari
- 3.A.Thilagavathy
- 4.A.Sophia
- 5.A.Rosy

(Respondents 3 to 5 brought an record as
Lrs of the deceased 1st petitioner/1st respondent vide
order dated 13.07.2016 made in M.P.No.1/2015
in CMA.No.1123 of 2011. ..Respondents

This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and decree dated 28.11.2010 and made in M.C.O.P.No.189 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District Court) Fast Track court, Thirupathur, Vellore District.

For petitioner : Mr.R.Sivakumar

For Respondents : Mr.K.Thiruvalluvan

O R D E R

Questioning the liability as well as the quantum, the appellant/Insurance company has filed this appeal under section 173 of the Motor Vehicles Act, 1988.

2. The deceased first respondent and his wife, second respondent herein had moved the Motor Accident Claims Tribunal with a claim petition in MCOP.No.189 of 2008 claiming a sum of Rs.5,00,000/- for the death of their son viz., Senguttavan in a road traffic accident said to have been taken place on 24.03.2005 at 4.00 a.m. near KKC Theatre, Jolarpettai to Natrampalli Main Road, involving a mini lorry bearing Reg.No.TN.23.W.2040.

3. The deceased was aged about 21 years at the time of

occurrence and he was self-employed and earning a sum of Rs.4500/-per month. The appellant/Insurance company, who is the second respondent in the claim petition had alone contested the claim, by filing their counter statement. However, the Tribunal based on the oral and documentary evidences available on record, had proceeded to award a sum of Rs.2,12,000/- directing the appellant/Insurance company to pay this amount with interest at the rate of 7.5% p.a. within a period of three months from the date of petition till the date of deposit. The Tribunal has determined the monthly income of deceased at Rs.3,000/-. Since the deceased was aged about 21 years at the time of occurrence, the age of the first claimant i.e. 60 at the time of occurrence was chosen to quantify the compensation. Accordingly, the multiplier of 8 was selected and based on this, a sum of Rs.1,92,000/- was calculated towards loss of dependency of the family. Besides this, the Tribunal had also awarded a sum of Rs.15,000/- towards loss of love and affection and another sum of Rs.5,000/- towards funeral expenses was also awarded. Totally a sum of Rs.2,12,000/- was awarded in favour of the appellants.

4. However, questioning the quantum of award, the appellant/Insurance company has preferred this appeal. During the pendency of the appeal, the first claimant Mr.Ayyadurai had passed away and therefore, in view of the order of this Court dated 13.07.2016 made in M.P.No.1 of 2015, the respondents 3 to 5 have been impleaded as the legal heirs of the deceased first respondent/claimant.

5. This Court has carefully considered the submission made by Mr.R.Sivakumar, learned counsel for the appellant and Mr.K.Thiruvalluvan, learned counsel appearing for the respondents/claimants.

6. Having regard to all the related facts and circumstances, this Court finds that the award passed by the Tribunal does not require any interference of this court and infact the Tribunal had calculated and awarded a lumpsum amount which does not require any modification or change. Hence, this appeal deserves to be dismissed and the award of the Tribunal is confirmed.

7. It is brought to the notice of this court that the appellant/Insurance company has already deposited the entire award amount along with accrued interest and cost before the Tribunal and that amount was also withdrawn by the claimant.

8. In the result, this Civil Miscellaneous Appeal is dismissed confirming the amount of the Tribunal. There shall be

no order as to costs.
Petition is closed.

Consequently, connected Miscellaneous

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To
The Motor Accident Claims Tribunal
(Additional District Court)
Fast Track court, Thirupathur, Vellore District.

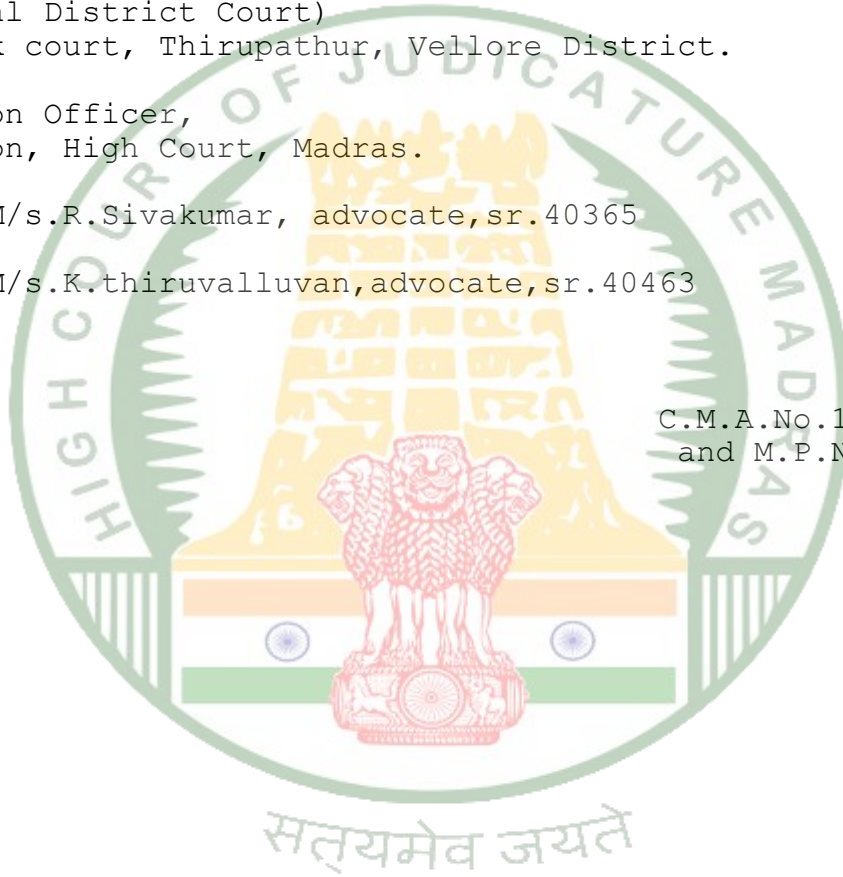
The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to M/s.R.Sivakumar, advocate,sr.40365

+1 cc to M/s.K.thiruvalluvan,advocate,sr.40463

rp(co)
krd 12/11

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