

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.09.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.2031 of 2016

and

C.M.P.No.14837 of 2016

The National Insurance Company Limited,
74/A, Paramathi Road,
Namakkal - 637 001.

.. Appellant

versus

1.P.Swamiyathal
2.R.Ponnusamy
3.Shree Dhanalakshmi Agro Centre,
216, Karur Main Road, Moolanur,
Dharapuram Taluk,
Tiruppur District.

.. Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.01.2015 made in M.C.O.P.No.68 of 2013, on the file of the Motor Accident Claims Tribunal, Additional District Judge No.3, Dharapuram.

For appellant :Mrs.R.Sree Vidhya

JUDGMENT

The Civil Miscellaneous Appeal has been directed against the impugned award dated 05.01.2015 made in M.C.O.P.No.68 of 2013, on the file of the Motor Accident Claims Tribunal, Additional District Judge No.3, Dharapuram, in and by which, the Tribunal has awarded a total compensation of Rs.7,12,000/- with interest at the rate of 7.5% per annum.

2. The case of the claimants is that on 01.08.2012 at about a.m., while the deceased was riding a TVS-50 Moped, bearing registration No.TN-33V-3772 from South to North Edge of the Vellakovil to Muthur Main Road, the driver of the Mazda Tempo bearing Registration No.TN-78-3990, drove the vehicle in a rash and negligent manner and dashed behind the deceased Moped with a great force. Due to the same, the deceased was thrown off and sustained grievous injuries all over his body. The deceased was died on the way to the Hospital. According to the claimants, the accident was occurred due to the the rash and negligent driving of the driver of the Mazda Tempo. The claimants are mother and father of the deceased respectively.

3. Learned counsel appearing for the appellant would submit that the learned Tribunal has erred in awarding a disproportionate compensation under all the heads. He would further submit that when the deceased was an unmarried person, the learned Tribunal ought to have taken the age of the parents of the deceased for adopting the multiplier and therefore the multiplier adopted by the Tribunal is on higher side, which needs interference.

4. But this Court is not able to find any merit on his submissions. The reasons are that firstly when the learned Tribunal has arrived at a correct conclusion that due to the negligent driving made by the driver of the Mazda Tempo, the accident had occurred and held that the insurer can pay the compensation to the claimants and recover the same from the owner or its driver, this Court is not able to find any infirmity in arriving the conclusion on the negligence aspect.

5. Secondly, the learned Tribunal, considering the fact that the deceased was working in Malar Textiles and was earning a sum of Rs.20,000/-, has fixed a sum of Rs.7,000/- as notional monthly income of the deceased, in the absence of any document to prove the monthly income of the deceased. Since the deceased was a bachelor at the time of accident, it has deducted half of the income towards his personal expenses and arrived at a sum of Rs.6,72,000/- towards loss of income, by rightly adopting the multiplier '16', as per the ratio laid down by the Hon'ble Apex Court in the case of Sarla Verma. This Court finds no infirmity in arriving at the sum of Rs.6,72,000/- under the head 'loss of income' and hence the same is confirmed. Learned Tribunal has awarded a reasonable compensation with regard to other heads and therefore the same is also confirmed. Therefore, this Court is not able to interfere with the impugned award passed by the learned Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P. is also dismissed.

7. Since the learned counsel appearing for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the learned Tribunal for withdrawing of the said amount.

Sd/-
Assistant Registrar(CS VI)

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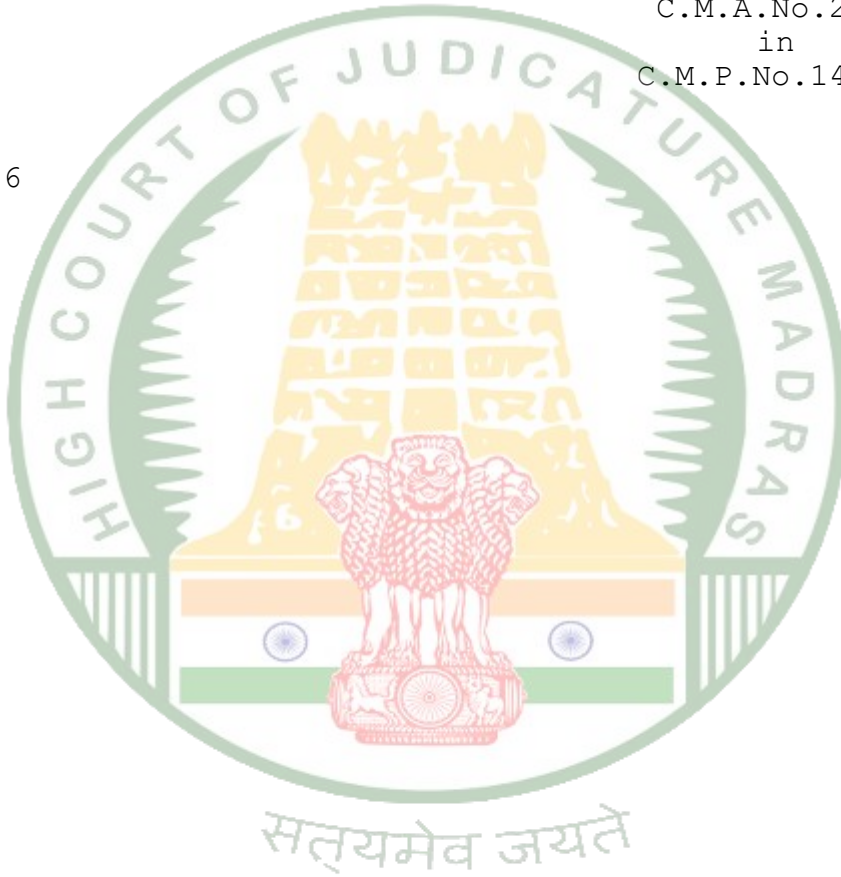
Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
Additional District Judge No.3,
Dharapuram.
2. The Section Officer, V.R. Section,
High Court, Madras.

C.M.A.No.2031 of 2016
in
C.M.P.No.14837 of 2016

CNR(CO)
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