

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.2136 of 2016
C.M.P.No.15398 of 2016

M/s.Reliance General Insurance Co. Ltd.,
Chennai ... Appellant / 2nd Respondent

versus

1. Sathyanarayanan
2. Thilagavathy
3. Sasirekha
4. M/s.Sical Logistics Ltd.,
No.110, Anna Salai,
Guindy, Chennai 600 032. ... Respondents/ Claimants and R1

Prayer: Civil Miscellaneous Appeal is filed, against the judgment and decree in M.C.O.P.No.4 of 2012, dated 23.12.2014, on the file of the learned Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Chengalpattu.

For Appellant : Ms.Harini,
for M/s.M.B.Gopalan Associates

JUDGMENT

(Judgement of the Court was made by S.MANIKUMAR ,J.)

Challenge in this appeal is to the judgment and decree in M.C.O.P.No.4 of 2012, dated 23.12.2014, by which, the learned Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Chengalpattu, has awarded compensation of Rs.10,57,640/- with interest, at the rate of 7.5% per annum, to the respondents/claimants. Monthly income of the deceased fixed as Rs.6,000/- is questioned.

2. Ms.Harini, learned counsel appearing for the appellant-Insurance Company made submissions.

3. As the challenge to the award, is restricted only to the quantum of compensation, there is no need to advert to the aspects of negligence and liability.

4. Perusal of the award shows that in the accident, which occurred on 22.11.2008, son of the 1st respondent, aged 22 years, sustained grievous injuries and despite intensive treatment, he died. It is the case of the legal representatives that at the time of accident, the deceased, a Diploma Holder in Automobile Engineering from Hindustan Institute of Engineering Technology, was self-employed and earned Rs.10,500/- per month. To prove the educational qualification, the respondents/claimants have marked Ex.P6-Hall Ticket. By observing that had the deceased completed Automobile Engineering course, he would have been employed and earned at least Rs.6,000/- per month, the Tribunal added 50% towards future prospects and determined Rs.9,000/- as the monthly income of the deceased, for the purpose of computing the loss of contribution to the family. As he was a bachelor, the Tribunal deducted 50% towards his personal and living expenses. Based on the entry in the hall ticket, the Tribunal has fixed his age as 22 years. Thereafter, by applying '18' multiplier, computed the loss of contribution to the family as Rs.9,72,000/- (Rs.4,500 x 12 x 18). In addition to the above, the Tribunal has awarded Rs.25,000/- each, to the parents under the head, loss of love and affection, Rs.25,000/- for funeral expenses, Rs.5,000/- for transportation and Rs.5,640/- for the medical expenses incurred in the hospital and altogether, awarded a sum of Rs.10,57,640/-, with interest, at the rate of 7.5% from the date of claim, till realization.

5. Though the appellant-Insurance Company has contended that the Tribunal has erred in fixing the monthly income of the deceased as Rs.6,000/- for the purpose of computing the loss of contribution to the family of the deceased and consequently, awarded a higher compensation, warranting reduction, this Court is not inclined to accept the said contention, for the reason that the Hon'ble Supreme Court in Sri Ramachandrappa Vs. The Manager, Royal Sundaram Alliance Insurance Company Ltd., reported in 2011 (2) TNMAC 190 SC, having considered the wages, which prevailed during the year of accident (2004), has fixed the monthly income at Rs.4,500/-. Therefore, even as per the judgment of the Hon'ble Supreme Court, wages for even a labourer, in the year 2008, would have increased. Merely because no document was produced by the respondents/claimants, to substantiate the avocation, at the time of accident, it cannot be said that the Tribunal has committed a manifest illegality, in fixing the monthly income as Rs.6,000/-. Determination of Rs.6,000/- per month, in the year 2008 and addition of 50%, for computing the loss of contribution to the family, cannot be said to be without any basis, and in our view, it is just and reasonable.

6. Addition of 50% of the income, towards future prospects, is in terms of the principles laid down by the Hon'ble Apex Court in Sanjay Verma v. Haryana Roadways reported in 2014 (1) TNMAC 279 (SC). Applying '18' multiplier and after deducting 50% towards the personal and living expenses of the deceased, the Claims Tribunal has determined the loss of contribution to the family as Rs.9,72,000/- (Rs.4,500/- x 12 x 18 x $\frac{1}{2}$). As the deceased was a bachelor, aged 22 years, application of '18' multiplier and deduction of 50% towards personal and living expenses, are in terms of the decision of the Hon'ble Apex Court in Sarla Verma v. Delhi Transport Corporation reported in 2009 (5) LW 561.

7. In Rajesh v. Rajbir Singh reported in 2013 (2) TNMAC 55, the Hon'ble Apex Court has awarded Rs.1,00,000/- each to the legal representatives of the deceased, towards the loss of love and affection. However, in the case on hand, the Claims Tribunal has awarded only Rs.50,000/- for towards loss of love and affection to the parents, which is less. There is no award towards damages to clothes and articles. The Tribunal has not awarded any compensation to the sister and apportioned the amount only between the parents. The overall quantum of compensation awarded to the parents cannot be said to be on the higher side warranting interference.

8. In the light of our discussion, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company, is directed to deposit the award amount, with proportionate accrued interest and costs, less the statutory deposit, to the credit of M.C.O.P.No.4 of 2012, on the file of the learned Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Chengalpattu, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants are permitted to withdraw the same, by making necessary applications, before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Asst.Registrar (CS III)

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Sub Asst. Registrar

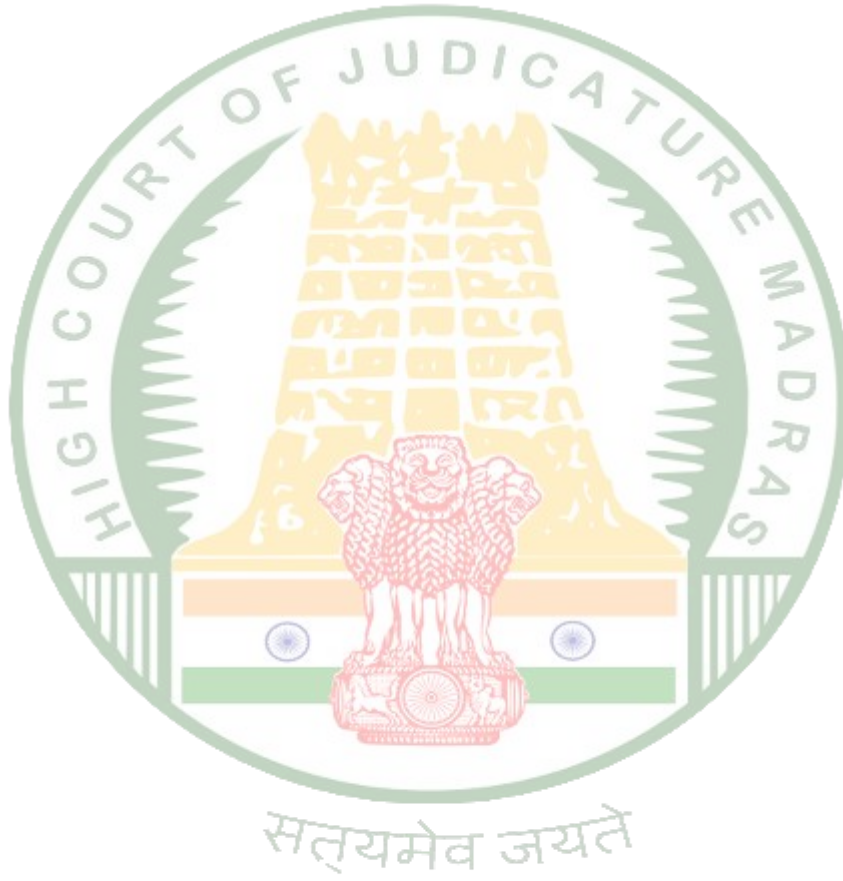
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To

The Motor Accidents Claims Tribunal,
(Chief Judicial Magistrate Court), Chengalpattu.

C.M.A.No.2136 of 2016

CTR (CO)
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