

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

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

C.M.A.No.2142 of 2016
C.M.P.No.15407 of 2016

The Bajaj Allianz General
Insurance Co. Ltd.,
Coimbatore.

Appellant / 3rd Respondent

versus

1. N.Indira Devi
 2. P.N.Reshmi
 3. P.Chinnamal
 4. M.Eswaran
 5. M.Ponmudi
- ...1 to 3 Respondents/ Petitione 1 to 3
...4th Respondent/ 1st Respondent
...5th Respondent / 2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree, dated 19.03.2015 made in M.C.O.P.No.1215 of 2009, on the file of the Motor Accidents Claims Tribunal, (Additional District Court No.3), Dharapuram.

For Appellant : Mr.Srinivasan Ramalingam

For Respondents 1 to 3 : Mr.P.Shanmuga Sundaram

J U D G M E N T

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

Appeal is directed against the judgment and decree, dated 19.03.2015 made in M.C.O.P.No.1215 of 2009, on the file of the Motor Accidents Claims Tribunal, (Additional District Court No.3), Dharapuram, by which, the Tribunal, fixing negligence on the 4th respondent, driver of the lorry, bearing Registration No.TN 58 J 7326, owned by the 5th respondent and insured with the appellant-Insurance Company, awarded compensation of Rs.29,03,103/-, with interest, at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

2. Before this Court, the appellant-Insurance Company has not challenged the finding, fixing negligence, on the driver of the abovesaid vehicle. Mr.Srinivasan Ramalingam, learned counsel

for the appellant also made submissions to that effect and it is placed on record. Therefore, there is no need to advert to the same.

3. Though the appellant-Insurance Company has assailed the quantum, on the grounds that, (i) The Claims Tribunal ought to have applied split multiplier, while determining the loss of contribution to the family; and (ii) The Tribunal, ought to have deducted 30% towards income-tax, from the annual income of the deceased. After discussion, learned counsel for the parties agreed for a full and final settlement of Rs.27,25,533/- as compensation and for a reduction of Rs.1,77,570/-, from the total compensation of Rs.29,03,103/-. Sum arrived at, as apportioned hereunder:

Loss of contribution to the family (Taking the monthly salary of the deceased, as Rs.43,412/-, deducted 20% towards Income Tax and after deducting 1/3rd towards personal and living expenses of the deceased, applied '9' multiplier)	: Rs.25,00,533/-
Loss of Love and Affection (Rs.50,000/- x 3)	: Rs. 1,50,000/-
Loss of Consortium	: Rs. 50,000/-
Funeral Expenses	: Rs. 25,000/-
Total	: Rs.27,25,533/-

4. In view of the settlement arrived at between the parties, the Civil Miscellaneous Appeal is partly allowed. The appellant-Insurance Company is directed to deposit the award amount, with accrued interest and costs, to the credit of M.C.O.P.No.1215 of 2009, on the file of the Motor Accidents Claims Tribunal, (Additional District Court No.3), Dharapuram, within a period of three weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

skm

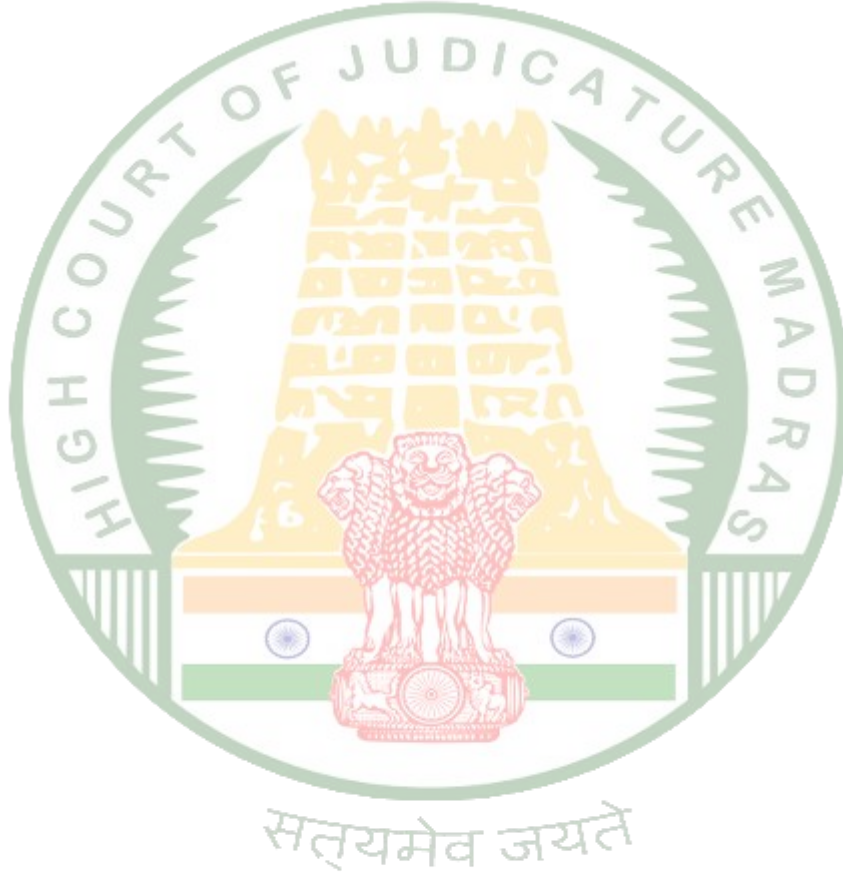
To

The Motor Accidents Claims Tribunal,
(Additional District Court No.3), Dharapuram.

1 cc to Mr.Srinivasan ramalingam, Advocate, Sr. 57294

C.M.A.No.2142 of 2016

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