

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.2765 of 2016
and C.M.P.No.20019 of 2016

M/s.United India Insurance Co. Ltd.
Motor Third Party Claim Cell,
No.134, Silingi Building,
Greams Road, Chennai - 6. ... Appellant / 2nd respondent

versus

1. B.Balamma
2. B.V.Sridhar
3. B.V.Aruna ... Respondents 1 to 3/petitioners
4. Jayaraman ... 4th Respondent/ 1st respondent
(R4 remained ex parte before
the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 13.04.2016, made in M.A.C.T.O.P.No.2252 of 2013, on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : M/s.R.Rathna Thara
For R1 to R3 : M/s.K.Varadhakamaraj

JUDGMENT

This is an appeal filed by the Insurance Company, challenging the quantum of compensation.

2. In respect of death of one Venugopal, aged about 67 years, working as LIC Agent, earning a sum of Rs.10,000/- per month, in the accident, which took place on 02.01.2013, the wife, son and daughter of the deceased filed a petition in M.A.C.T.O.P.No.2252 of 2013 before the Motor Accident Claims Tribunal (II Small Causes Court), Chennai, claiming compensation of Rs.8,00,000/-. As against the claim of Rs.8,00,000/-, the Tribunal has awarded a sum of Rs.7,77,000/-, which is under challenge by the Insurance Company. The break-up details of the compensation reads as under:

Loss of pecuniary benefits	-	Rs.4,02,000/-
Loss of Love and affection	-	Rs.3,00,000/-
Loss of estate	-	Rs. 50,000/-

Funeral expenses	- Rs. 25,000/-
Total	- Rs.7,77,000/-

3. The learned counsel for the appellant/Insurance Company contended that the award passed is excessive, as there is no evidence to show that the contribution of the deceased was excessive to the extent being contributed to the estate, therefore, the compensation towards loss of estate ought not to have been granted. The learned counsel further contended that loss of love and affection has been awarded at Rs.3,00,000/-, which is also excessive, as it is a conventional damage, it may be awarded at Rs.75,000/- to each of the claimants. It is also contended that the compensation towards funeral expenses at Rs.25,000/- is excessive and hence, the compensation awarded by the Tribunal has to be reduced.

4. The learned counsel appearing for the claimants submitted that the amount awarded by the Tribunal is justifiable and hence, it may be confirmed.

5. As rightly contended by the learned counsel for the Insurance Company, there is no evidence to show that the income of the deceased was so excessive to the extent being given towards development of their estate. Therefore, loss of estate has to be deleted from the total amount of compensation and it is deleted accordingly.

5.1. So far as loss of love and affection has been awarded at Rs.3,00,000/- is concerned, which is claimed by the Insurance company, as excessive as it is a conventional damage and having regard to the age of the claimants, a sum of Rs.75,000/- to each of them would be appropriate and not Rs.1,00,000/-.

5.2. Having regard to the fatal death due to the accident, the funeral expenses awarded at Rs.25,000/- is reasonable and hence, it is confirmed.

6. In the result, the appeal is allowed, reducing the compensation from Rs.7,70,000/- to Rs.6,52,000/-, which is payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. No costs. Consequently, connected miscellaneous petition is closed.

7. It is represented by the learned counsel for the Insurance Company that Rs.25,000/- has been deposited by the Insurance Company.

7.1. Hence, the Insurance Company is directed to deposit the amount awarded by this Court with interest at the rate of 7.5%

p.a. from the date of petition till the date of deposit, less the amount already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimants are permitted to withdraw the same as per the ratio of the apportionment made by the Tribunal .

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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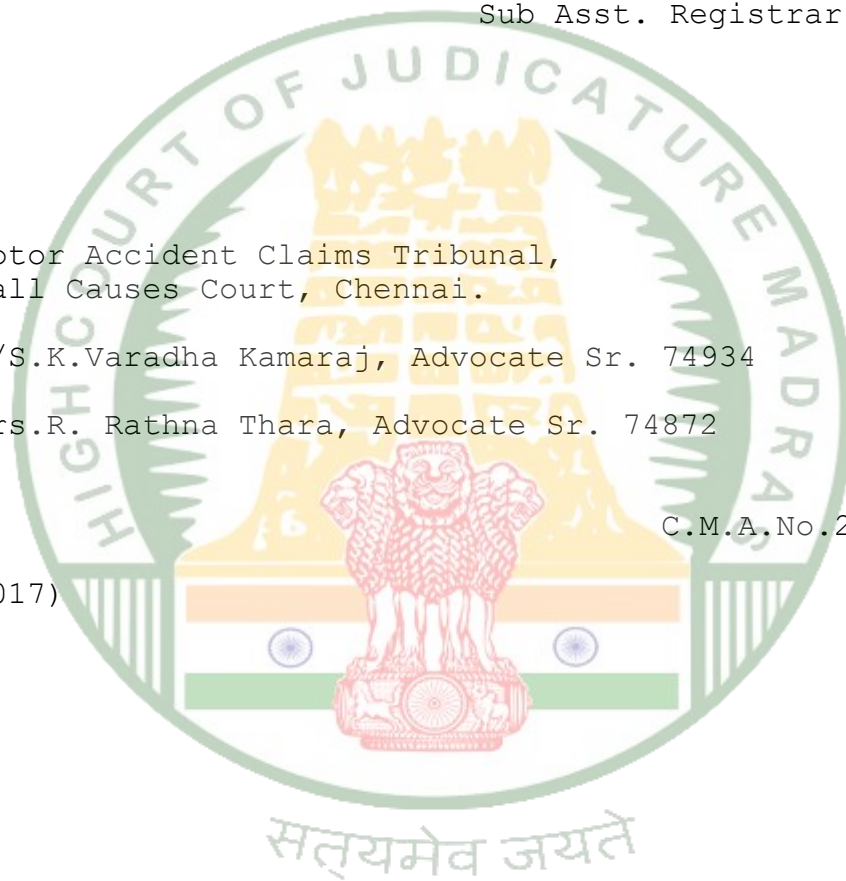
1. The Motor Accident Claims Tribunal,
II Small Causes Court, Chennai.

+1cc to M/S.K.Varadha Kamaraj, Advocate Sr. 74934

+1cc to Mrs.R. Rathna Thara, Advocate Sr. 74872

C.M.A.No.2765 of 2016

SAI (CO)
VR(22/5/2017)



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