

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.12.2016

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1855 of 2014

and

M.P.No.1 of 2014

Branch Manager

M/s.Oriental Insurance Co. Ltd,

6-A, North Cotton Road,

Tuticorin.

.. Appellant/3rd Respondent

Versus

1. Tmt.Viruthambal

2.Tmt.Radha

3.Thiru.Murugan

4.Thiru. Bharathi Raja

..Respondents 1 & 2/Claimants

.. Respondents 3 & 4/
Respondents 1 & 2

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the Judgement and decree passed in M.C.O.P.No.883 of 2009 on 28.02.2013 on the file of the Learned Motor Accident Claims Tribunal (II Additional District and Sessions- Judge) Tirupur-District.

For appellant : Mr.J.Chandran

For respondents: Mr.S.P.Yuvaraj (R1 and R2)

No appearance (R3 and R4)

J U D G M E N T
सत्यमेव जयते

One Ramasamy who had been employed as a watchman, earning a sum of Rs.6,000/- per month, died in an accident that took place on 23.07.2009. His wife and the daughter filed claim petition for compensation, before the Motor Accidents Claims Tribunal (II Additional District and Sessions Judge) Tiruppur in M.C.O.P.No.883 of 2009.

2. The Claims Tribunal, on consideration of the oral and documentary evidence has quantified the compensation at Rs.5,95,000/-. The break-up details of the same are as under:

Loss of Income (5000x12=60,000-1/3x11)	:	Rs.4,40,000/-
Love and Affection	:	Rs.1,00,000/-
Consortium	:	Rs. 50,000/-
Funeral Expenses	:	Rs. 5,000/-
Total		<u>Rs.5,95,000</u>

3. Learned counsel for the appellant would point out that the age of the deceased was taken at 55, but as per ration card which has been issued in the year June 2005, the age of the deceased was 57. But, the learned counsel for the respondent would submit that according to the post mortem report the age of the deceased is only 55 and therefore the tribunal is right in fixing the age of the deceased.

4. According to the learned counsel for the appellant, the proper multiplier should be 9 and not 11. Having regard to the age mentioned to the Ration Card as well as Post mortem certificate, this Court is of the view that the age must be in between 56 to 60, in which case, multiplier of 9 has to be adopted. Hence, taking income as Rs.60,000/- and deducting 1/3rd personal expenses and by adopting multiplier 9, the loss of income would come to Rs. 3,60,000/- and accordingly a sum of Rs.3,60,000/- is awarded under the head Loss of income and a sum of Rs.50,000/- is awarded towards loss of love and affection and a sum of Rs.1,00,000/- is awarded towards consortium to wife and towards Transport expenses a sum of Rs.25,000/- is awarded and hence total compensation is awarded at 5,35,000/-.

5. In the result, the appeal is allowed reducing compensation from a sum of Rs.5,95,000/- to Rs.5,35,000/- which shall carry interest at the rate of 7.5% from the date of petition, till the date of deposit.

6. It is represented that the compensation awarded by the tribunal has already been deposited in the Court. The claimant is permitted to withdraw the amount of Rs.5,35,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit and the balance amount shall be withdrawn by the Insurance Company. No costs.

-s/d-
Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
(IV Small Causes Court) Chennai.

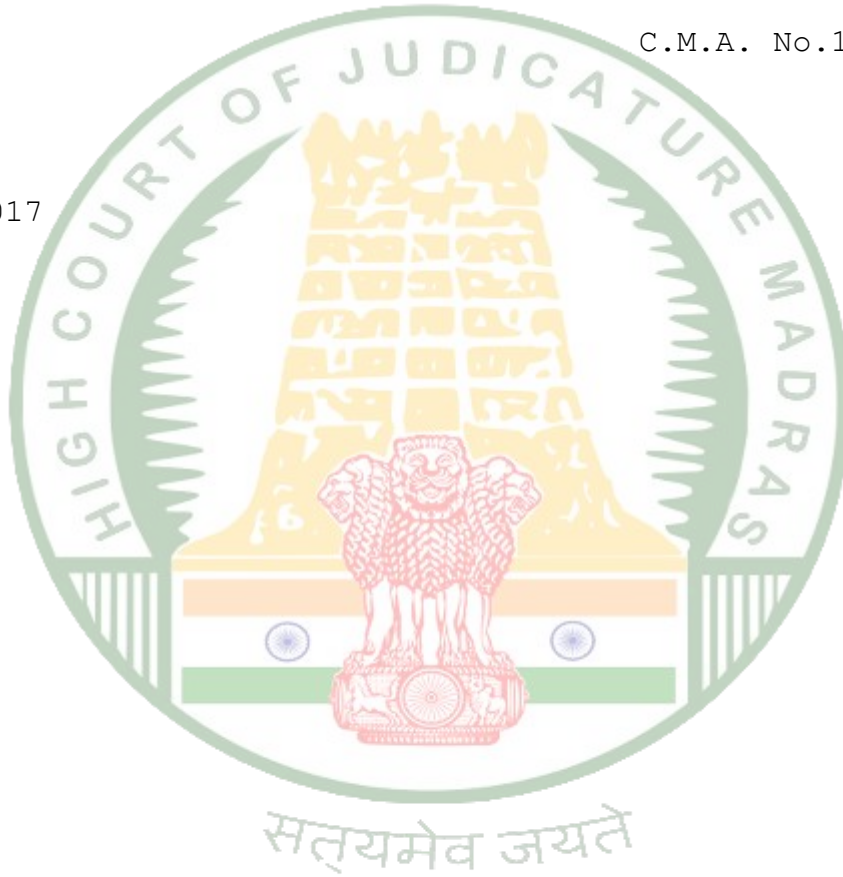
2. The Section Officer, VR Section,
High Court, Madras.

+1 cc to Mr.J.Chandran Advocate sr 73899

+1 cc to Mr.Yuvaraj Advocate sr 74282

C.M.A. No.1855 of 2014

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