

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2016

Coram:-

The Hon'ble Mr. Justice M.DURAI SWAMY
and
The Hon'ble Mr. Justice R.SURESH KUMAR

C.M.A.No.2627 of 2012 and
M.P.No.1 of 2012

The Branch Manager
United India Insurance Co. Ltd.,
Branch Office,
RPR Complex,
Bye-Pass Road
Near Govt. Hospital
Dharmapuri 636 701

..Appellant/II Respondent

vs.

1.D.Saraswathi
2.Kannaiyaram
3.Mangai
4.K.Selvaraj

..1 to 3 Respondents/1to3 Petitioners
..4th Respondent/1st Respondent

C.M.A. filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 02.01.2012 made in M.C.O.P.No.659 of 2008 on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Krishnagiri.

For Appellant : Mr.T.Ravichandran

For Respondents 1to3: Mr.Mukund R.Pandian

R4 : Exparte

J U D G M E N T

(Judgement of the court was delivered by M.DURAI SWAMY, J.,)

Challenging the award dated 02.01.2012 passed in M.C.O.P.No.659 of 2008 on the file of the Motor Accidents Claims Tribunal (hereinafter referred to as "the Tribunal"), Principal District Court, Krishnagiri, the Insurance Company has filed the above appeal.

2. The respondents 1 to 3 are the claimants. The claimants filed M.C.O.P.No.659 of 2008 claiming total compensation of a sum of Rs.25 lakhs for the death of K.Devendra @ K.Devendiran, the husband of the 1st claimant and the son of claimants 2 and 3.

3. Before the Tribunal, on the side of the claimants, 3 witnesses were examined and 5 documents, Exs.P-1 to P-5 were marked and on the side of the respondents neither any witness was examined nor any document was marked.

4. The Tribunal, after taking into consideration the oral and documentary evidences, awarded a total compensation at Rs.19,17,818/- together with interest @ 7.5 % p.a. Aggrieved over the said award, the Insurance Company is before this Court.

5. The learned counsel appearing for the appellant/Insurance Company submitted that the appellant is challenging only the quantum of compensation in this appeal.

6. Heard Mr.T.Ravichandran, learned counsel appearing for the Insurance company and Mr.Mukund R.Pandian, learned counsel appearing for the claimants.

7. It is not in dispute that the said K.Devendra @ K.Devendira had died in a road accident that occurred on 28.09.2002. At the time of accident, the said K.Devendra @ K.Devendira was aged 29 years and was working as an Operator in Indian NIPPON Electricals Limited. The claimants produced Ex.A5, Salary certificate of the deceased to prove that the deceased was earning a monthly salary of Rs.9,272/- and based on that the Tribunal, after deducting professional tax of Rs.750/-; after deducting 1/3rd towards his personal expenses and by adding 50% towards future prospects, applying the correct multiplier at 17, had arrived at the loss of dependency at Rs.18,82,818/-. Thus, the Tribunal awarded a sum of Rs.19,17,818/- as compensation as detailed below:-

Sl.No.	Head	Amount of Compensation awarded (Rs.)
1	Loss of dependency	18,82,818
2	Loss of Consortium	5,000
3	Loss of Estate	5,000
4	Transport and Funeral Expenses	5,000

Sl.No.	Head	Amount of Compensation awarded (Rs.)
	Total	19,17,818/-

8. The learned counsel appearing for the appellant submitted that the Tribunal had awarded the compensation without deducting the income tax from the salary of the deceased.

9. On a perusal of Ex.A5, Salary certificate and the findings of the Tribunal, it could be seen that the annual income of the deceased was only Rs.1,11,504/- and therefore, no income tax was deducted by the employer. In these circumstances, we are of the considered view that the award of Rs.18,82,818/- towards loss of income is just and proper. Similarly, we are also of the view that the compensation awarded by the Tribunal on the other heads are also just and proper. Since the Tribunal has awarded the just compensation, we have no reason to interfere with the award passed by the Tribunal.

10. There is also no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

11. In these circumstances, finding no merit, the Civil Miscellaneous Appeal stands dismissed.

12. This Court, while granting interim stay by order dated 12.09.2012 in M.P.No.1 of 2012 had directed the Insurance Company to deposit the entire award amount together with proportionate interest and on such deposit being made, the claimants were permitted to withdraw 50% of the amount apportioned to their respective shares from the deposited amount along with proportionate accrued interest. In view of the dismissal of the appeal, the claimants are permitted to withdraw their balance respective shares as apportioned by the Tribunal by filing appropriate applications before the Tribunal. If the award amount has not been already deposited, the appellant/Insurance Company is directed to deposit the entire award amount together with proportionate interest within a period of eight weeks from the date of receipt of a copy of this order so as to enable the claimants to withdraw the same.

There will be no order as to costs. Connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

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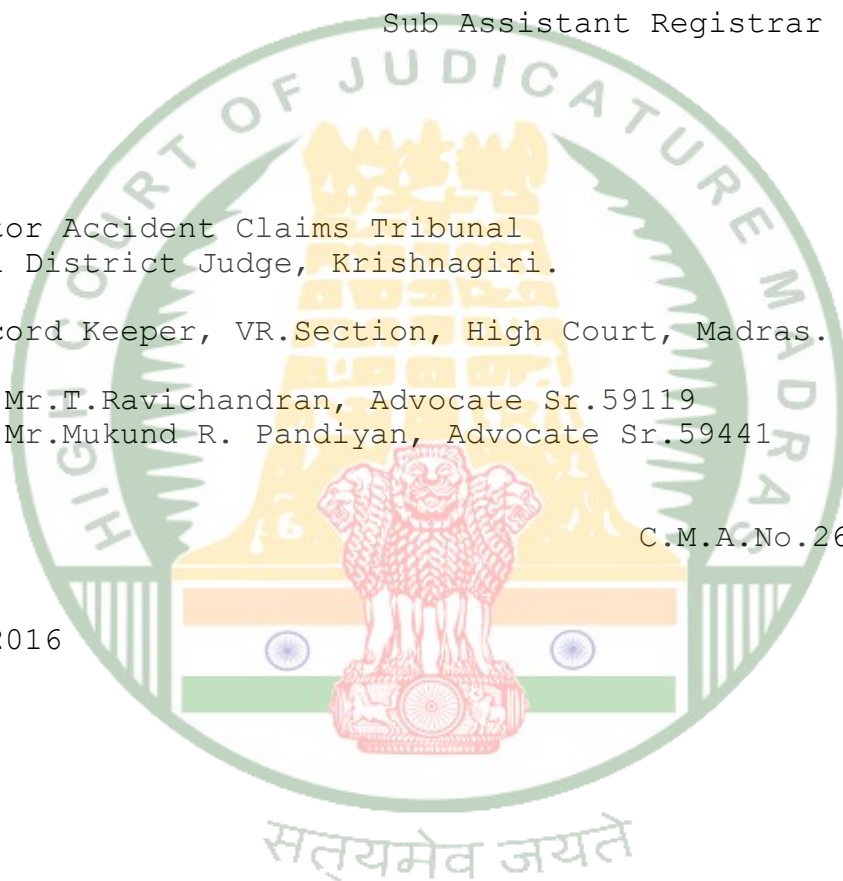
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Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal
Principal District Judge, Krishnagiri.
 2. The Record Keeper, VR.Section, High Court, Madras.
- + 1 cc to Mr.T.Ravichandran, Advocate Sr.59119
+ 1 cc to Mr.Mukund R. Pandiyan, Advocate Sr.59441

C.M.A.No.2627 of 2012

CA (CO)
EU 09/12/2016



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