

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.2298 of 2004

and

C.M.P.No.13680 of 2004

M/s. New India Assurance Company Limited,
Pondicherry. .. Appellant/2nd Respondent

.. Vs ..

1. Arumugam
2. Shanmugam
3. Veeramuthu
4. Kaliasammal
5. Paramasivam
6. Sambantham

.. Respondents/Petitioners 1 to 5/
1st Respondent

(R-6 Ex-parte in the Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 07.02.2002 made in M.C.O.P.No.516 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Subordinate Judge), Virudhachalam.

For Appellant : Mrs.R.Sreevidhya
for Mr.K.S.Narasimhan
For RR-1 to 5 : Batta Due
For R-6 : Ex-parte
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JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 07.02.2002 made in M.C.O.P.No.516 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Subordinate Judge), Virudhachalam.

2. The respondents 1 to 5 herein as claimants have filed a claim petition in M.C.O.P.No.516 of 2000 before the learned Additional Subordinate Judge, Motor Accidents Claims Tribunal, Virudhachalam, claiming a sum of Rs.5,00,000/- as compensation for the death of the deceased viz., Marimuthu against the appellant and sixth respondent herein. The Tribunal, after considering the evidence adduced by both parties, awarded a sum of Rs.2,40,000/- towards compensation. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant/second respondent in the M.C.O.P.No.516 of 2000.

3. The learned counsel for the appellant/Insurance Company would mainly contend that the judgment and decree of the Tribunal is contrary to law, weight of evidence and probabilities of the case. It is further contended that the Tribunal is erred in awarding excessive amount of Rs.2,40,000/- as compensation and therefore, the compensation awarded by the Tribunal has to be reduced according to the facts and circumstances of the case and hence, the learned counsel for the appellant prayed that the award passed by the Tribunal has to be set aside and the appeal has to be allowed.

4. Notice sent to the respondents 1 to 5 is not served on them.

5. This Court considered the submissions made by the learned counsel appearing for the appellant and perused the entire records.

6. On perusal of the judgment of the Tribunal, it is seen that the Tribunal, after considering the oral and documentary evidence adduced on either side, correctly awarded a sum of Rs.2,40,000/- considering the age and income of the deceased and since the deceased was living with the claimants during the time of accident, the claimants/respondents 1 to 5 are entitled to compensation.

7. Since the Tribunal correctly fixed the age and income of the deceased and by applying the multiplier method, awarded just and reasonable compensation of Rs.2,40,000/-, the argument of the learned counsel for the appellant that the Tribunal awarded excessive compensation is not at all acceptable and hence, the civil miscellaneous appeal deserves to be dismissed.

8. In the result, the civil miscellaneous appeal is dismissed by confirming the judgment and decree dated 07.02.2002 made in M.C.O.P.No.516 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Subordinate Judge),

Virudhachalam. Consequently, the connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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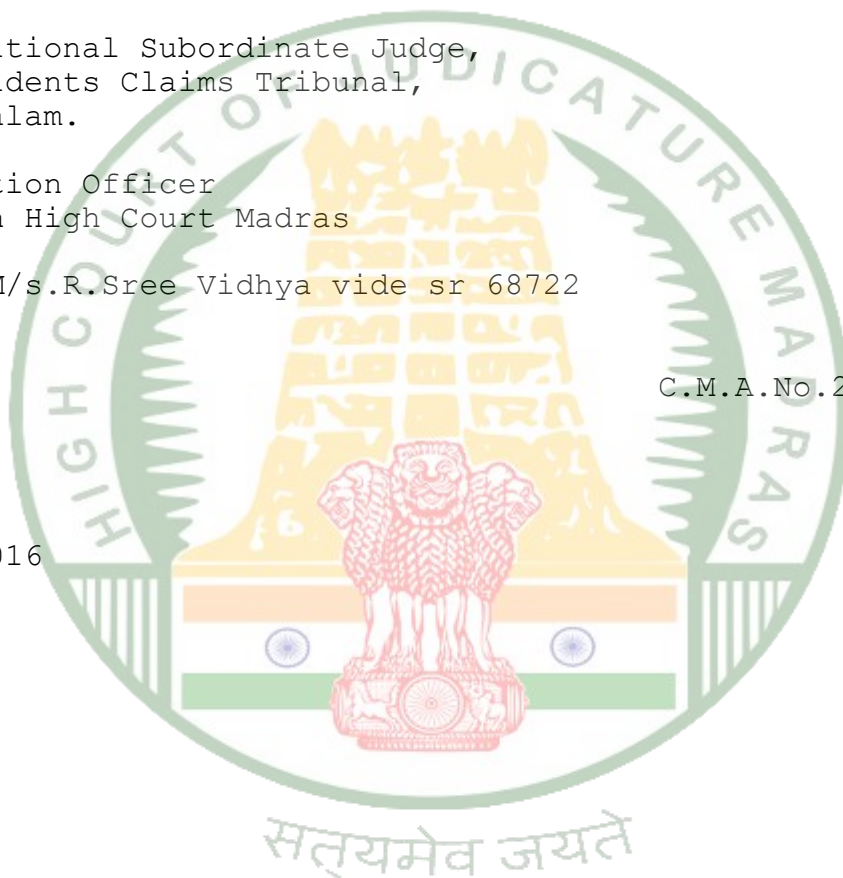
1.The Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Virudhachalam.

2.The Section Officer
VR Section High Court Madras

+1 cc to M/s.R.Sree Vidhya vide sr 68722

C.M.A.No.2298 of 2004

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