



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2016

Coram:

WEB COPY

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

C.M.A(MD)No.963 of 2014

Shobana

.. Appellant / Petitioner

-Vs-

1.S.Shanmugavel

2.The Branch Manager,  
The United India Insurance Co. Ltd.,  
50/1, S.N.High Road (1st Floor),  
Tirunelveli.

3.Jeya

4.N.Raja .. Respondents /Respondents

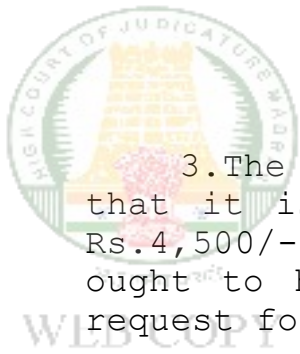
**Prayer:-** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.1779 of 2008, on the file of the Motor Accident Claims Tribunal, V Additional District Judge, Madurai, dated 26.09.2013.

|                 |                               |
|-----------------|-------------------------------|
| For Appellant   | : Mr.G.Rajan                  |
| For Respondents | : Mr.A.S.Mathialagan (for R2) |
|                 | Mr.K.Samidurai (for R4)       |
| No Appearance   | for R1 & R3                   |

### **JUDGMENT**

The appellant has filed the present C.M.A(MD)No.963 of 2014, challenging the award passed in M.C.O.P.No.1779 of 2008, dated 26.09.2013, on the file of the Motor Accident Claims Tribunal/ V Additional District Judge, Madurai.

2.It is a case of fatal accident caused due to the accident took place on 07.03.2008 at about 16.15 hours in Madurai-Thirumangalam NH-7 Road. The wife of the deceased filed an application seeking compensation before the Motor Accident Claims Tribunal, V Additional District Judge, Madurai. The Tribunal, considering the facts and circumstances of the case, awarded Rs.6,23,500/- as total compensation.



3.The learned counsel appearing for the appellant contends that it is a case of fatal accident and the monthly income of Rs.4,500/- fixed by the Tribunal was erroneous and the Tribunal ought to have fixed Rs.2,500/- as monthly income. Accordingly, request for enhancement of compensation awarded by the Tribunal.

4.The learned counsel appearing for the respondents opposed the appeal by stating that the deceased was working as Tractor Diesel Mechanic and the accident took place in the year 2008 and the notional monthly income of Rs.4,500/- during that relevant point of time and the Tribunal has not committed any error in respect of fixing the monthly income of the deceased concerned and the award deserves no re-consideration.

5.The learned counsel appearing for the appellant contended that the amount granted for funeral expenses, loss of consortium, love and affection, loss of estate are very meagre which also requires re-consideration.

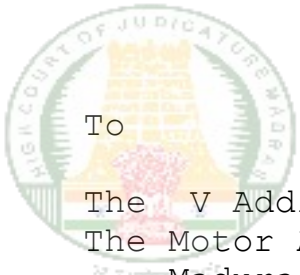
6.The learned counsel appearing for the respondents opposed the contention by stating that the appellant/claimant got re-married and now living happily with her second husband. Such being the case, this Court is not inclined to re-consider the award of the compensation granted by the Tribunal, in view of the fact that the appellant/claimant had re-married and now living in a matrimonial home. In such cases, the Courts need not enhance the compensation, in view of the fact that the re-marriage will provide love and affection, happiness and other aspects to the victims and therefore, the present appeal is devoid of merits and accordingly, the award passed in M.C.O.P.No.1779 of 2008, dated 26.09.2013, on the file of the Motor Accident Claims Tribunal, V Additional District Judge, Madurai, is confirmed and the Civil Miscellaneous Appeal is dismissed.

7.The learned counsel appearing for the respondent/Insurance Company represented that the entire award amount has already been deposited with accrued interest and the appellant/claimant is permitted to withdraw the entire award amount along with accrued interest through RTGS by filing necessary application before the Tribunal. No costs.

Sd/-  
Assistant Registrar (Admn)

/True Copy/

Sub Assistant Registrar



To

The V Additional District Judge,  
The Motor Accident Claims Tribunal,  
Madurai.

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+1cc to Mr.G. Rajan Advocate Sr.No. 71978

+1cc to Mr.A.S.Mathialagan Advocate Sr.No. 71186

+1cc to Mr.K.Samidurai Advocate Sr.No. 71533

JAM/29.12.16/EM/MPA/3p-5c

C.M.A (MD) No.963 of 2014  
22.11.2016