

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1197 of 2017
and CMP.No.6015 of 2017

United India Insurance Co. Ltd.,
Saligramam, Chennai - 93 Appellant/2nd Respondent

vs.

1. K.Mary Varonice
2. K.Reena
3. K. Nobin
4. Y.Ammi @ Susaiammal ... Respondents 1 to 4/claimants 1 to 4
5. P.Stanly ... 5th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.182 of 2014 dated 03.09.2015 on the file of Motor Accidents Claims Tribunal, [II Additional District Judge], Poonamallee.

For Appellant : Mr.S.Arun Kumar

For Respondents: Mr.K.Varadha Kamaraj
(for R1 to R4)

सत्यमेव जयते
J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

Quantum of compensation of Rs.38,25,000/- with interest at the rate of 7.5% per annum, from the date of claim till deposit and costs, awarded to the legal representatives to the deceased, in MCOP.No.182 of 2014 dated 03.09.2015, on the file of the MACT [II Additional District Judge], Poonamallee, is the only challenge. Placing on record the above, there is no need to advert to the finding of negligence and liability.

2. Deceased was stated to be a Senior Technician, Gr.-I Fitter in Integral Coach Factor [ICF], Chennai, aged 58 years and earned Rs.54,799/-. Supporting the avocation, PW3-Chief Welfare Officer, has adduced evidence by marking Ex.P6, salary slip and Ex.P7, Basic salary. Upon perusal of the same and after deducting professional tax and income tax, the tribunal fixed the monthly income as Rs.52,000/-, deducted 1/4th towards the personal and living expenses of the deceased and arrived at the annual loss of contribution as Rs.4,68,000/-. Having regard to II-Schedule to Section 163-A of the Motor Vehicles Act, 1988, the tribunal applied 8 multiplier and arrived at the loss of contribution to the family as Rs.37,44,000/-. That apart, awarded Rs.15,000/- for funeral expenses, Rs.5,000/- for Transport expenses, Rs.20,000/- for loss of consortium, Rs.40,000/- for loss of love and affection to respondents 2 to 4 herein and Rs.1,000/- for conventional damages. Altogether, the tribunal awarded compensation of Rs.38,25,000/-, with interest at the rate of 7.5% per annum from the date of claim till deposit and costs.

3. When the instant CMA.No.1197 of 2017, came up for hearing, Mr.S.Arun Kumar, learned counsel for United India Insurance Company Limited and Mr.K.Varadha Kamaraj, learned counsel for the respondents/claimants, after discussion, consented to have the compensation be fixed as Rs.35,53,936/- as hereunder.

Loss of income	: Rs.33,27,936/-
Loss of love and affection	: Rs. 1,00,000/-
Loss of consortium	: Rs. 1,00,000/-
Funeral & Transport Expenses	: Rs. 25,000/-
Damages to clothes	: Rs. 1,000/-
Total	: Rs. 35,53,936/-

4. In the light of consensus arrived at, compensation now determined on appeal is Rs.35,53,936/-. Compensation awarded by the tribunal is Rs.38,25,000/-. There shall be a reduction in the award to the tune of Rs.2,71,064/-.

5. Mr.Varadha Kamaraj, learned counsel for the respondents/claimants submitted that reduction in the quantum of compensation be made from the share of the 1st respondent/wife. Said submission is placed on record.

6. Mr.S.Arun Kumar, learned counsel for the appellant-United India Insurance Company Limited, the appellant submitted that the entire amount awarded by the tribunal with proportionate interest and costs, has been deposited to the credit of MCOP.No.182 of 2014 on the file of the MACT [II Additional District Judge], Poonamallee.

7. Respondents being major, are permitted to withdraw the share apportioned to them with proportionate interest and costs and the appellant-Insurance Company is permitted to seek for refund of the balance amount with proportionate interest. Civil Miscellaneous Appeal is allowed in part. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

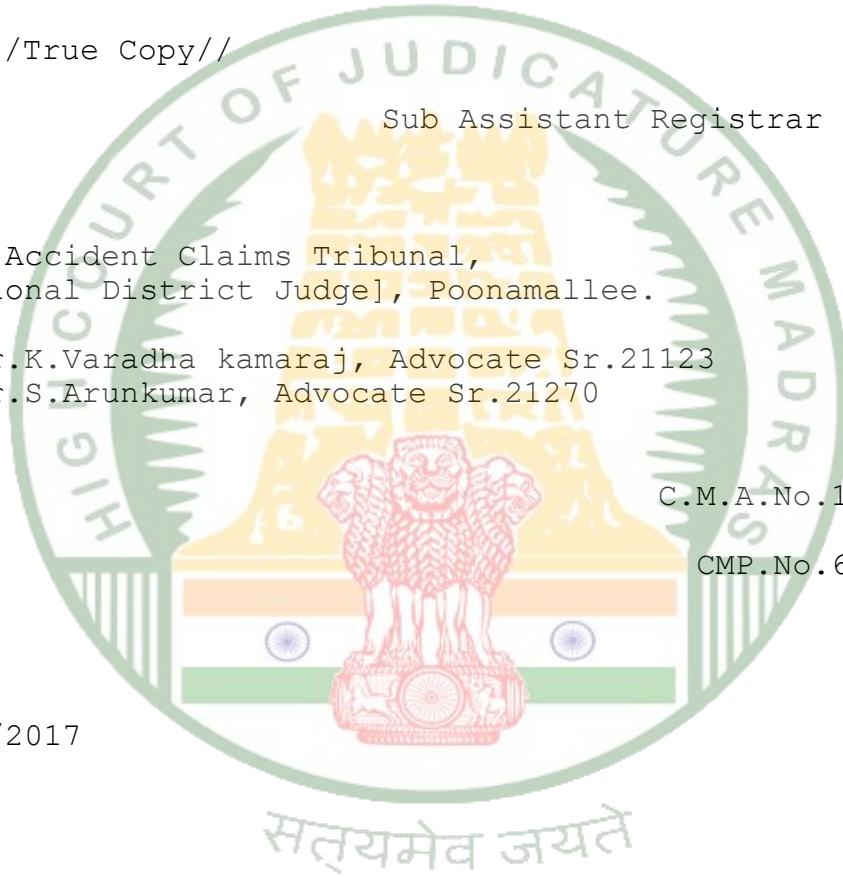
ars
To

The Motor Accident Claims Tribunal,
[II Additional District Judge], Poonamallee.

+1cc to Mr.K.Varadha kamaraj, Advocate Sr.21123
+1cc to Mr.S.Arunkumar, Advocate Sr.21270

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