

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1310 of 2017

&

C.M.P. No. 6771 of 2017

The New India Assurance Co. Ltd.,  
NO.1, Bharathi Road,  
Arcot Woodlands Building,  
Cuddalore.

...Appellant/2<sup>nd</sup> Respondent

Vs.

1. S. Azhagurani
2. Arivuezhil
3. Arivukkarasi
4. T. Elango

...Respondents/Petitioners/1<sup>st</sup> Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 13.03.2015 made in O.P. NO. 2919 of 2013 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Cuddalore.

For Appellant :: Mr.D. Bhaskaran

For Respondents:: Ms.Ramya V. Rao  
for R1 to R3

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Principal District Judge), Cuddalore, in M.C.O.P. No. 2919 of 2013, to the tune of Rs.24,33,570/-, for the death of one G. Selvaraj, aged about 50 years, who was a Conductor in TNSTC and alleged to be earning Rs.22,616/- per month, in the accident which occurred on 08.06.2013, when a motor cycle bearing Registration No. TN-31-BY-3587, belonging to the 4<sup>th</sup> respondent and insured with the appellant Insurance Company, driven in a rash and negligent manner, dashed against the deceased, when he was standing at the extreme left side of the main road at Manalur.

2. Heard Mr.D. Bhaskaran, learned counsel for the appellant and Ms.Ramya V. Rao, learned counsel appearing for

respondents 1 to 3/ claimants.

3. Since the quantum of compensation awarded alone is in question, the issue of negligence is not gone into.

4. Though Mr.D. Bhaskaran, learned counsel for the appellant would submit that the Tribunal determined the age of the deceased as 52 years, relying upon Ex-P4, postmortem certificate, as the claimants failed to prove the age of the deceased and that the said determination is wrong, in the absence of any proof regarding the age, the Tribunal is justified in doing so.

5. Since the victim was a conductor with TNSTC, earning about Rs.22,616/- per month, as evidenced by Ex-P6, salary certificate, the Tribunal, after deducting one-third towards "Personal Expenses" of the deceased, based on the size of the family of the deceased, namely, three, and applying multiplier 11, as per the judgment of the Honourable Apex Court rendered in Smt. Sarla Verma and Others V. Delhi Transport Corporation and another reported in 2009 (6) SCC Pg. 121, rightly awarded a sum of Rs. 19,90,208/- (Rs.15077/- x 12 x 11) towards "Loss of Dependency".

6. Yet another contention of the learned counsel for the appellant is that income tax deduction payable by the victim, in case, he had been alive, was not deducted by the Tribunal. Taking into consideration, the fact that non-pecuniary benefits have not been adequately given, this Court is of the view that the award of Rs.24,33,570/-, which is inclusive of Rs.19,90,208/- towards "Loss of Dependency", Rs.10,000/- towards "Loss of Consortium", Rs.10,000/- each to respondents 2 & 3 towards "Loss of Love and Affection", Rs.10,000/- each towards "Transport Expenses" and "Funeral Expenses" and Rs.3,93,360/- towards "Medical Expenses", is reasonable and hence, confirmed. The rate of interest awarded by the Tribunal @ 7.5% per annum remains intact.

8. The appellant Insurance Company is directed to deposit the entire award amount, along with interest and costs, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount, directly to the claimants, as per the ratio fixed by the Tribunal, through RTGS, after getting their Bank Account details, within a period of one week thereafter.

9.In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Connected C.M.P. is closed.

Sd/-  
Assistant Registrar(CS VI)

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Sub Assistant Registrar

To

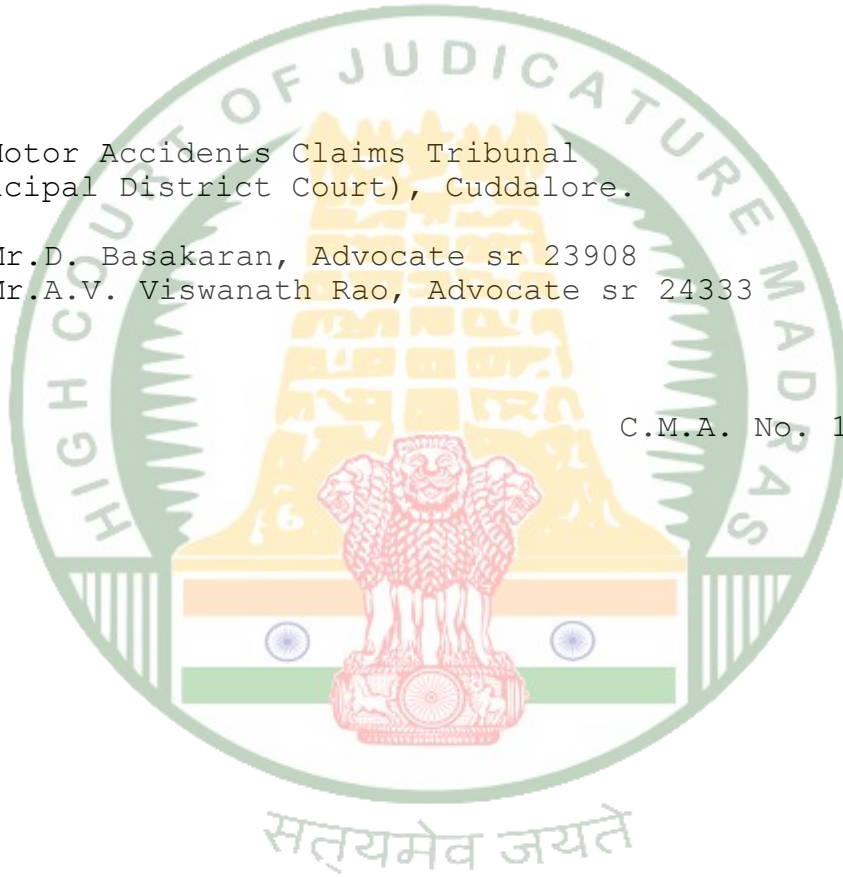
The Motor Accidents Claims Tribunal  
(Principal District Court), Cuddalore.

+1 CC to Mr.D. Basakaran, Advocate sr 23908

+1 CC to Mr.A.V. Viswanath Rao, Advocate sr 24333

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RJ(CO)  
sp/23/5



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