

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.130 of 2016

1. R.Kavitha
 2. Minor R.Nanthakumar
 3. P.Sarasu
- ... Appellants / claimants

..Vs..

1. K.Senthilkumari
 2. M/s. The Oriental Insurance Company Ltd.,
PLA Building, 1st Floor, No.12/A Kovai Road,
Karur 639 002
- ... Respondents
(R-1 remained exparte before the Tribunal,
hence notice is dispensed with for R-1)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 11.11.2014, made in MACTOP No.474 of 2013 on the file of the Motor Accident Claims Tribunal / Principal District Court, Namakkal.

For Appellants : Mr. Ma.P.Thangavel
For R-2 : Mr. J.Chandran

J U D G M E N T

The wife, minor child and the mother of the deceased P.Ramesh @ Rameshkumar filed a claim petition, claiming compensation of Rs.10,00,000/-.

2. The deceased was aged 34 years, a mechanic by profession, self-employed, earning a sum of Rs.15,000/- per month. The Tribunal, while quantifying the compensation, fixed the age of the deceased at 34 and has arrived the income at Rs.5,500/- per month and the multiplier of '16' has been adopted.

3. The learned counsel appearing for the second respondent /

Insurance Company would point out that even as per their record, i.e., the statement made by the deceased himself, the age of the deceased is 37 and therefore, the multiplier of '15' ought to have been adopted. Accordingly, the age is taken as 37 and multiplier of 15 is adopted.

4. Taking the monthly income at Rs.5,500/- and adding 50% towards the future prospective increase in income and deducting 1/3rd towards the personal expenses and adopting the multiplier of '15', the total amount towards loss of dependency would be Rs.9,90,000/- (Rs.5,500/- + Rs.2,750/- (-) :Rs.2,750/-)x12x15). Considering the age of claimants, a sum of Rs.14,500/- is awarded to each of the claimants 1 and 3 and Rs.50,000/- is awarded to the minor claimant, towards loss of love and affection. The sum awarded towards Rs.10,000/- towards funeral expenses is too low, hence the same is enhanced to Rs.25,000/-. Considering the fact that the wife has lost the companionship of the husband at the very young age, the loss of consortium to wife is awarded at Rs.60,000/-. Thus, the total amount of is quantified at Rs.11,54,000/-.

4. In the result, this Civil Miscellaneous Appeal is allowed, by enhancing the total compensation from Rs.7,64,000/- to Rs.11,54,000/-.

5. At this juncture, the learned counsel for the Insurance Company would submit that, for the delay willfully caused by the claimants, they are not entitled to interest and the delay condoned for 416 days, the claimants are not entitled to interest.

5.1. The said submission is accepted and the Insurance Company is directed to pay the enhanced compensation amount, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less 416 days, within a period of four weeks from the date of receipt of a copy of this judgment. Out of the said compensation, the wife / first claimant / first appellant is entitled to a sum of Rs.3,00,000/-, the son / second claimant / second appellant is entitled to a sum of Rs.6,50,000/- and the mother / third claimant / third appellant is entitled to a sum of Rs.2,04,000/-. The major claimants / appellants 1 and 3 herein are permitted to withdraw their share of compensation, lying in court deposit, and the share of the minor claimant / second appellant shall be invested in a Fixed Deposit, Reinvestment Scheme, for a period of three years, and renewable thereafter, till the minor attains majority and the interest accrued thereon shall be withdrawn by the natural guardian of the minor / first appellant herein, once in three months directly from the Bank under intimation to the Tribunal.

The balance court fee shall be paid by the claimants before getting the copy of the judgment. No costs. Consequently, the connected CMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk

To

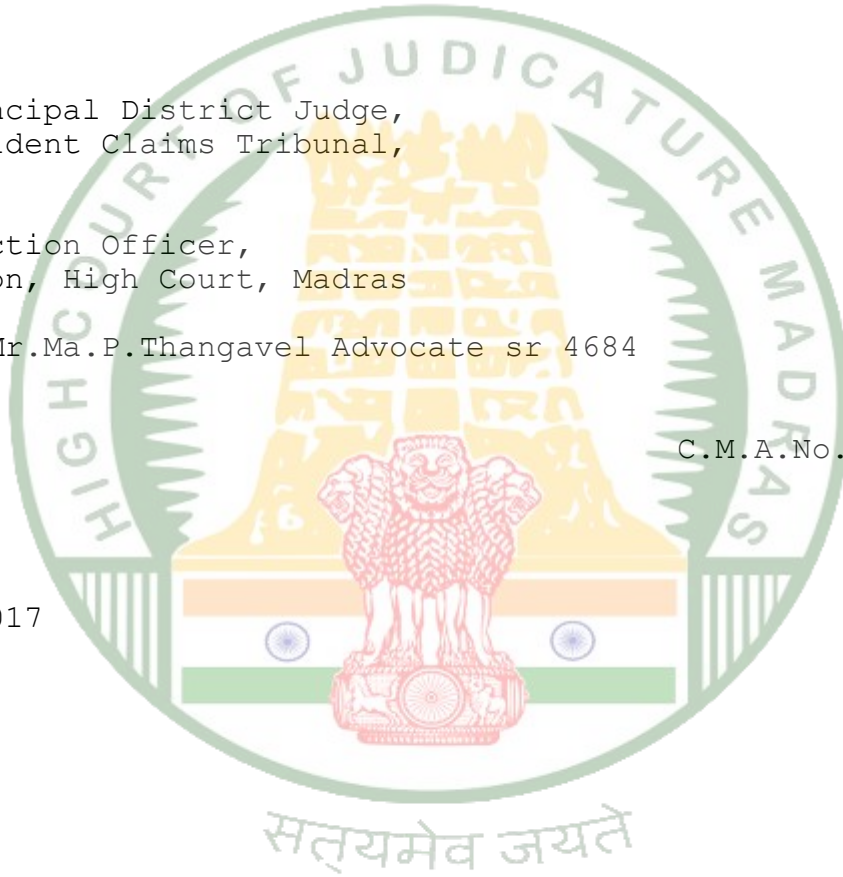
1.The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal

2. The Section Officer,
V.R.Section, High Court, Madras

+1 cc to Mr.Ma.P.Thangavel Advocate sr 4684

C.M.A.No.130 of 2016

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