

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

C.M.A.No.1508 of 2017  
and C.M.P No.8104 of 2017

The Manager,  
The New India Assurance Co.Ltd.,  
No.83, TSR Big Street, Kumbakonam ... Appellant

Vs.

1.Rajamani  
2. Pannerselvam  
3. Minor Swetha ... Respondents 1 to 3/Claimants  
(Rep by next friend & Mother Rajamani)  
4. Ravikumar ... Respondent 4  
(R-4 remained exparte before the Tribunal)

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgement and decree passed in M.C.O.P.No.261 of 2013, dated 31.08.2015, on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Judge & Chief Judicial Magistrate), Ariyalur.

For Appellant : Mr.M. Krishnamoorthy

For Respondents 1 to 3 : No appearance

J U D G M E N T

The deceased Kumar, aged 32 years, employed as a driver, met with an accident on 11.01.2013, and after fighting for life, till 18.09.2013, he succumbed to the injuries, in respect of which, Jayankondam Police Station has registered a case under section 304A of the Indian Penal code, in Crime No.460/2013.

2. Contending that the death of the deceased has caused financial and emotional loss, the wife aged 27 years and the father aged 58 years, have filed the claim petition, for compensation, claiming a sum of Rs. 30,00,000/-.

3. The Tribunal, on a consideration of the oral and documentary evidence, has quantified the compensation at Rs. 14,50,068/-.

4. Contending that the amount of compensation awarded is disproportionate to the income of the deceased, the Insurance Company has filed this appeal.

5. In order to appreciate the contentions raised, it is necessary to find out the details of the award passed by the claims Tribunal.

6. The Tribunal has considered the fact that the deceased has been employed as a coolie and that his age was 30.

7. The learned counsel for the appellant would submit that his date of birth, as found in the document is 10.07.1976, and therefore his age cannot be 30 and it must be 37.

7.1. If this contention is to be accepted, the multiplier would be less. But the fact remains that the future prospective increase in income of the deceased had not been taken into account and therefore, if that is taken into account, the amount of compensation awarded will not become excessive.

7.2. Moreover, loss of love and affection has been granted only at Rs. 10,000/- to each of the claimants, and therefore, the amount of compensation awarded cannot said to be excessive and therefore, the Civil Miscellaneous Appeal is dismissed.

7.3. It is made clear that the findings with regard to the pay and recover is not under challenge, and therefore it is confirmed as such. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

kv/srk

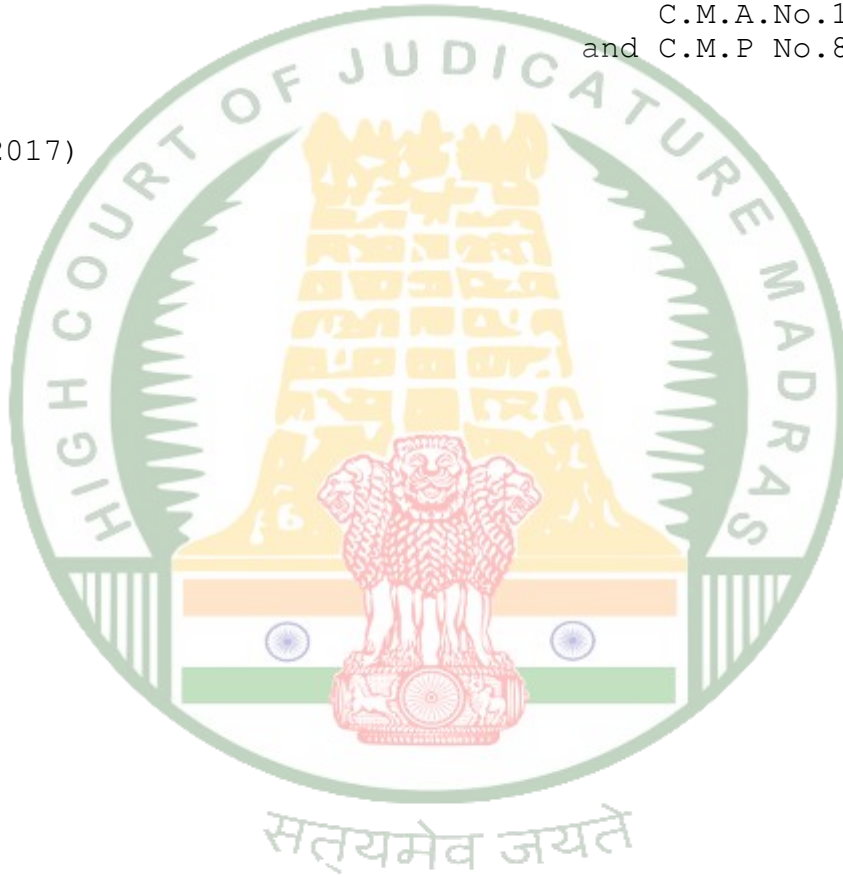
To

The Motor Accident Claims Tribunal,  
The Additional District and  
Sessions Judge & Chief Judicial Magistrate,  
Ariyalur.

+lcc to Mr.M. Krishnamoorthy, Advocate Sr. 39621

C.M.A.No.1508 of 2017  
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GP(CO)  
VR(19/06/2017)



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