

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.1786 of 2016

1. Bakkiyalakshmi
2. Dinesh
3. Marayal

Appellants/Claimants

vs

1. G.Thangapandi
2. A.Anandakumar
3. HDFC General Insurance Company Ltd
4th Floor, Rajanarayanan Towers,
No.70, Race Course Road,
Coimbatore Taluk,
Coimbatore District

4. J.Jeyaprabha

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.04.2016 passed in M.C.O.P.No.339 of 2009 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Gobichettipalayam.

For Appellants : Mr.A.Kumar

For Respondents-1,2&4: Set ex-parte before Tribunal

For Respondent-3 : Mr.J.Michael Visuvasam

JUDGMENT

This is an appeal filed by the claimants against the award dated 06.04.2016 made in MCOP.No.339 of 2009 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Gobichettipalayam for Rs.27,00,000/-, seeking enhancement of the claim.

2. On 22.08.2008 at about 5.00 p.m., while the deceased was riding motor cycle bearing Registration No.TN 36 5343 along with a pillion rider on Kolappallur to Kurumandur road from East to West direction, a van bearing Registration No.TN 38-AL-8497,

came in a rash and negligent manner and hit against the deceased, due to which, he sustained fatal injuries. Hence, the legal heirs of the deceased have filed a Claim Petition before the Tribunal seeking a sum of Rs.27,00,000/- as compensation.

3. On a consideration of the oral and documentary evidence, the Tribunal awarded a sum of Rs.11,64,000/- as compensation to the claimants. Break-up details of the award are as follows:

Loss of earnings	Rs.6,24,000/-
Transport to Hospital	Rs.5,000/-
Funeral Expenses	Rs.25,000/-
Loss of love and affection	Rs.1,50,000/-
Medical expenses	Rs.3,60,000/-
Total	Rs.11,64,000/-

4. Heard the learned counsel for the appellants and the learned counsel for the third respondent-Insurance Company and perused the materials available on record.

5. As far as the income of the deceased per month is concerned, the Tribunal has taken as Rs.6,000/- p.m. as notional income and 1/3 was deducted and the Tribunal fixed the monthly income at Rs.4,000/- and by adopting multiplier 13, it had awarded a sum of Rs.6,24,000/-. As per the judgment of the Supreme Court reported in Syed Sadiq vs. Divisional Manager, United India Insurance Company Limited, (2014) 2 SCC 735, this Court fixes the notional monthly income at Rs.6,500/- for the death of the deceased, an Agriculturist. In this case, apart from being an Agriculturist, the deceased was doing some brokerage business. Therefore, this Court is inclined to consider the income at Rs.6,500/- per month and after deduction of 1/3rd from the same, it comes to Rs.4,333/-. Then, under the head "loss of earning", the award would be Rs.4,333/- x 12 x 13 = Rs.6,75,948/-, rounded off to Rs.6,75,950/-. Under the head "Loss of Consortium", nothing was awarded to the wife of the deceased. Hence, this Court feels it appropriate to award compensation under the head 'Loss of consortium' and accordingly, a sum of Rs.1,00,000/- is awarded towards the same. The Tribunal has also not considered the head "Loss of estate", which would also be another Rs.50,000/-. Other than these heads, the award amount in respect to the other heads are confirmed. Break-up details of the revised award are tabulated below:

Loss of earnings 4,333 x 12 x 3 = 6,75,948/- (rounded off to Rs.6,75,950)	Rs.6,75,950
Loss of consortium	Rs.1,00,000/-
Loss of Estate	Rs.50,000/-
Transport to Hospital	Rs.5,000/-
Funeral Expenses	Rs.25,000/-
Loss of love and affection	Rs.1,50,000/-
Medical expenses	Rs.3,60,000/-
Total	Rs.13,65,950/-

6. According, the Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal is enhanced from Rs.11,64,000/- to Rs.13,65,950/- payable with interest at the rate of 7.5% per annum from the date of claim petition till the date of payment. The third respondent-Insurance Company is directed to deposit the said amount within a period of six weeks from the date of receipt of a copy of this judgment and the claimants are entitled to withdraw the same forthwith. The claimants are directed to pay the necessary Court fee, if any, for the enhanced portion of the award amount. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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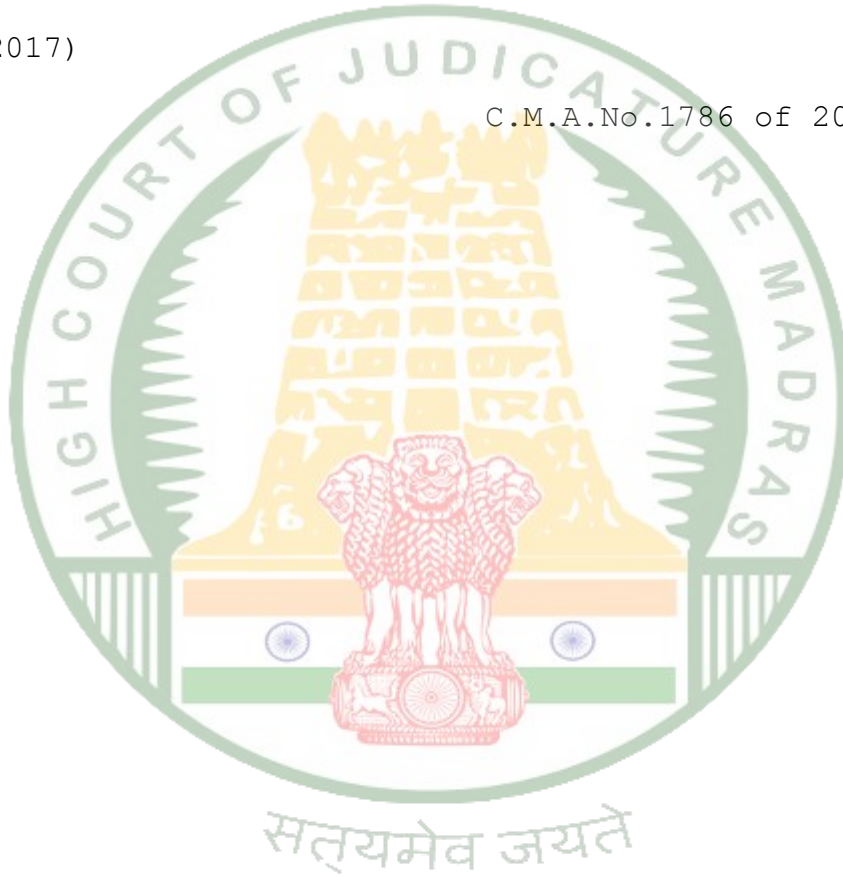
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To
1 The Subordinate Judge,
(Motor Accidents Claims Tribunal)
Gobichettipalayam

+lcc to Mr.A. Kumar, Advocate, S.R.No.18881
+lcc to Mr.J. Michael Visuvasam, Advocate, S.R.No.18578

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