

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2017

CORAM:

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.1792 of 2017

- 1.Chandira
- 2.Kumar
- 3.Rajeswari
- 4.Sundari

... Appellants/Petitioners

Vs.

1. Ravichandran
2. The Divisional Manager,
The National Insurance Company Limited,
No.19 Officer's Line, Vellore

... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the decree and Judgment, dated 22.05.2001, made in M.C.O.P.No.206 of 2000 on the file of the Motor Accident Claims Tribunal, Additional District Court cum Chief Judicial Magistrate, Thiruvannamalai.

For Appellants : Mr. F.Terry Chellaraja

For Respondents : Mr. D.Bhaskaran, for R-2,
Exparte for R-1

J U D G M E N T

Mani, aged 60, a Mason in a building construction, earning a sum of Rs.3,000/- per month, died in an accident on 07.08.1999. The Tribunal has passed an award for a sum of Rs.65,000/-, payable with interest at 12% per annum. The claimants, in this appeal, have challenged the quantum of compensation, especially the non-grant of compensation on account of loss of love and affection.

2. The learned counsel for the appellants / claimants would point out that the award has been passed under the heads of loss of earnings, loss of consortium to the first petitioner and the funeral expenses and no award has been passed for transportation and loss of love and affection.

3. The details of the award passed would also go to show that the age of the deceased has been taken at 65, based upon the postmortem certificate. The monthly income of the

deceased has been taken at Rs.1,500/-, with a finding that a Mason will not get work for all the thirty days in a month. The monthly dependency has been taken as Rs.1,500/-; the annual dependency at Rs.18,000/-; and deducting 1/3rd towards the personal expenses, the pecuniary loss has been estimated; adopting the multiplier of '5' the loss of dependency has been awarded at Rs.60,000/-.

4. The loss of consortium to the first petitioner has been awarded at Rs.4,000/- and funeral expenses at Rs.1,000/- and thus, the total amount of compensation has been quantified at Rs.65,000/-.

5. Though the Tribunal has passed the award for a sum of Rs.65,000/-, the amount awarded under the head 'loss of consortium' to the P-1 is too low and no amount is awarded under the head 'loss of love and affection' to P-2 and P-3. Hence, the loss of consortium to the first claimant is enhanced to Rs.20,000/- and the loss of love and affection to P-2 to P-3 each, is awarded at Rs.20,000/-. Hence, there shall be an overall increase of Rs.56,000/- over and above the amount of compensation awarded by the Tribunal.

6. In the result, the Civil Miscellaneous Appeal is partly- allowed. Apart from the amount awarded by the Claims Tribunal (with interest at 12% per annum), the enhanced amount of compensation of Rs.1,21,000/- shall be deposited by the second respondent / Insurance Company, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this judgment. The claimants are not entitled to any interest for the default period. On such deposit being made, the claimants / appellants herein are permitted to withdraw the entire amount of compensation, in equal proportion, as ordered by the Claims Tribunal. The claimants shall pay the necessary court fee before receiving the copy of the judgment. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Motor Accident Claims Tribunal,
Additional District Court cum
Chief Judicial Magistrate,
Thiruvannamalai.

<https://hcservices.ecourts.gov.in/hcservices/>

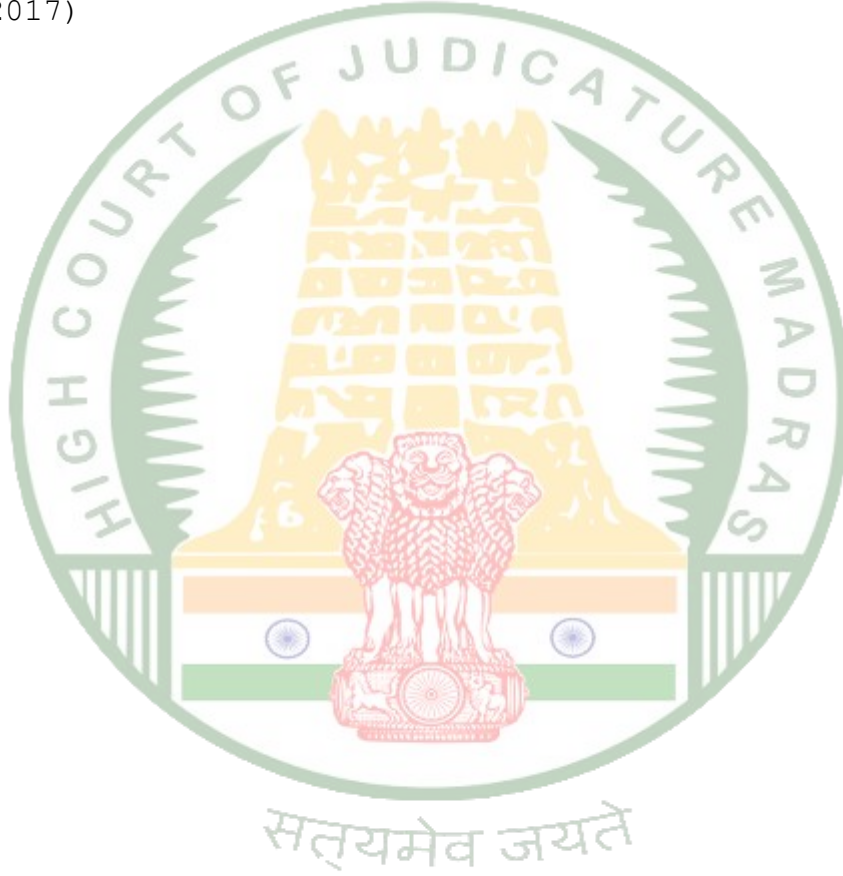
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.D.Baskaran, Advocate, S.R.No.48195

+1cc to Mr.F.Terry Chellaraja, Advocate, S.R.No.47806

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RJ (CO)
CA(04/09/2017)



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