

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Twentieth day of June Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE S.MANIKUMAR

AND

THE HON`BLE MR JUSTICE M.GOVINDARAJ

CMP No.568 & 8978 of 2017

IN CMA.62/2017

THE DIVISIONAL MANAGER [PETITIONER in CMP.568/2017 in
M/S. NEW INDIA ASSURANCE CO.LTD., CMA.62/2017 & 1ST RESPONDENT
OFFICER LINE, VELLORE. CMP.8978/2017 in CMA.62/2017]

Vs

1 MOHAMMED ALI [1 & 2 RESPONDENTS IN CMP.568/2017 in
CMA.62/2017 & 1 & 2 PETITIONERS IN
2 HAJEERA BANU CMP.8978/2017 in CMA.62/2017]
3 D. KANAGAVIJAYAN [3RD RESPONDENT IN IN CMP.568/2017 in
CMA.62/2017 & 3RD PETITIONERS IN
CMP.8978/2017 in CMA.62/2017]

(NO RELIEF SOUGHT AGAINST THE 2ND RESPONDENT
HENCE NOTICE MAY BE DISPENSE WITH)

Petitions praying that in these circumstances stated therein
and in the respective affidavits filed therewith the High Court
will be pleased to

i) Stay the operation of the award passed in MCOP No. 134/2013
dated 02/06/2016 on the file of the learned Motor Accident Claims
Tribunal, (I Additional District and Sessions Judge), at Vellore,
District, in (IN CMP.568/2017 in CMA.62/2017)and;

ii) Permit the petitioners to withdraw the entire deposited
amount with accrued interest lying in the credit of MCOP No.134 of
2013 on the file of the Motor Accident Claims Tribunal, I
Additional District and Sessions Judge, Vellore in (CMP.8978/2017
in CMA.62/2017) respectively

Order : These petitions coming on for orders upon perusing
the petitions and the respective affidavits filed in support
thereof and upon hearing the arguments of M/S.J.CHANDRAN, Advocate
for the PETITIONER in CMP.568/2017 in CMA.62/2017 & 1ST RESPONDENT

IN CMP.8978/2017 in CMA.62/2017 and of M/S.C.PRABAKARAN, Advocate for the 1 & 2 RESPONDENTS IN CMP.568/2017 in CMA.62/2017 & 1 & 2 PETITIONERS IN CMP.8978/2017 in CMA.62/2017 the court made the following order:-

(Order of the Court was made by S.Manikumar,J)

Questioning the quantum of compensation of Rs.17,70,000/-, with interest, at the rate of 7.5% p.a., awarded in M.C.O.P.No.134 of 2013, dated 2/6/2016, on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore, New India Assurance Company Limited, Vellore, is on appeal.

2. On the challenge to quantum of compensation, the only ground is that Tribunal has erred in fixing the monthly income of the deceased as Rs.13,000/-, based on Ex.P.10 Income certificate and the solitary evidence of P.W.3 stated to be the Manager of Vellore Silk House.

3. On this day, when the appeal came up for hearing, Mr.J.Chandran, learned counsel for the appellant submitted that computation of loss of contribution to the family has been done by applying the age of the parents, instead of the age of the deceased and that therefore, C.M.A.No.11 of 2017 has been filed for suitable enhancement, by applying multiplier as regards the age of the deceased.

4. As both the appeals revolve on the quantum of compensation, to avoid multiplicity, it is desirable to have a joint hearing. Registry is directed to obtain suitable orders from My Lord the Hon'ble Chief Justice and thereafter, list the matter. Registry is further directed to secure the records in M.C.O.P.No.134 of 2013, dated 2/6/2016, on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore.

5. Record of proceeding shows that while granting stay of execution of the decree, this Court in C.M.P.No.568 of 2017 in C.M.A.No.62 of 2017 has directed the Divisional Manager, New India Assurance Company Limited, Vellore, to deposit 50% of the award amount, with proportionate interest and costs, to the credit of M.C.O.P.No.134 of 2013, on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore. The said amount is stated to have been deposited.

6. Contending inter alia that due to the sudden demise of their son, to mitigate financial crisis and to meet out their family needs, claimants have filed C.M.P.No.8978 of 2017, seeking permission to withdraw the amount deposited with proportionate accrued interest and lying in the credit of M.C.O.P.No.134 of 2013, on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore.

7. We have heard the learned counsel appearing for both parties.

8. Avocation as salesman in Vellore Silk House, has been substantiated by marking Ex.P.10 salary certificate and supporting the same, P.W.3 Manager has been examined. At this juncture, even assuming that the income, Rs.13,000/- p.m., as determined by the Tribunal is excessive, on appeal, it would not be reduced to the gross extent, much less 50% of the same.

9. Considering the grievance expressed in C.M.P.No.8978 of 2017 in C.M.A.No.62 of 2017, we are of the view that in the interest of justice, the same has to be vindicated and therefore, permit the petitioners/claimants, to withdraw the amount deposited with proportionate interest and costs, now lying in the credit of M.C.O.P.No.134 of 2013, dated 2/6/2016, on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Vellore.

10. In the result, **C.M.P.No.568 of 2017 is closed and C.M.P.No.8978 of 2017 is ordered accordingly.**

-sd/-

20/06/2017

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE 1ST ADDITIONAL DISTRICT &
SESSIONS JUDGE, MOTOR ACCIDENT CLAIMS
TRIBUNAL. VELLORE-DISTRICT

2 THE SECTION OFFICER,
VR SECTION, HIGH COURT, CHENNAI-104

C.C. to M/S.J.CHANDRAN Advocate on payment of necessary charges

C.C. to M/S.C.PRABAKARAN, Advocate on SR.NO.8050

The Government Advocate, High Court, Madras - 104.

Order

in

CMP No.568 & 8978 of 2017

IN CMA.62/2017

Date :20/06/2017

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
ADD 04.07.2017