

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.1884 of 2017

1.Sathya

2.Gajendran

... Appellants/Petitioners

Vs.

1.D.Saravanan

2.Bharti AXA General Insurance

Company Limited,
Metro Plaza, 2nd Floor,
164, Anna Salai,
Chennai 600 002.

... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 31.08.2016 made in M.A.C.T.O.P.No.5510 of 2013 on the file of the Motor Accidents Claims Tribunal, Chennai, (In the Chief Court of Small Causes, Chennai).

For Appellants : Mr.K.Suryanarayanan

For Respondent No.1 : Ex-parte

For Respondent No.2 : Mr.Srinivasa Ramalingam

JUDGMENT

The deceased Uma Maheswari, aged 28 years Cooli, earning a sum of Rs.500/- per day, died in an accident on 08.08.2013.

2. The parents of the deceased filed a claim petition for claiming a sum of Rs.15,00,000/- as compensation. The Tribunal, on consideration of materials, has awarded a sum of Rs.9,68,000/- with the following break-up details.

2.1.The monthly income of the deceased has been taken at Rs.6,000/-. 50% addition has been made based upon the decision of Rajesh and Others Vs. Rajbir Singh and others, 2013 (2) TNMAC 55 (SC), (Rs.6,000/- x 50/100 = Rs.3000 + Rs.6000 = Rs.9,000/-). Adopting multiplier 17, the loss of dependency has been calculated at Rs.9,18,000/- (Rs.9,000/- x $\frac{1}{2}$ x 12 x 17 = Rs.9,18,000/-).

2.2.Rs.10,000/- each has been awarded to the petitioners for a loss of love and affection. Rs.25,000/- has been awarded for funeral expenses and Rs.5,000/- has been awarded for transport expenses and a total sum of Rs.9,68,000/- has been awarded by the Tribunal.

3. The learned counsel appearing for the appellants has pointed out that as per the reported decision in Syed Sadiq, etc., Vs. Divisional Manager, United India Insurance Co., Ltd., reported in 2014 (1) TNMAC 459 (SC), the monthly income have been taken at Rs.6,500/-, especially, when the deceased is a woman, died as a homemaker also, the household service rendered by the deceased should have been taken into account.

4. The contention raised by the learned counsel for the appellants' is correct and monthly income is taken as Rs.6,500/-. If the monthly income is fixed at Rs.6,500/-, 50% addition to the monthly income would be at Rs.9,750/-, if the same multiplier is adopted and the same deduction is made, the loss of dependency would be at Rs.9,94,500/-.

5. The loss of love and affection has been awarded at Rs.10,000/- each is enhanced to Rs.50,000/- each to the petitioners. The transport expenses and the cremation has already been awarded is confirmed.

6. There is over all increase in the compensation by Rs.1,56,500/-. The total amount of compensation awarded at Rs.11,24,500/-.

7. In the result, the Civil Miscellaneous Appeal is allowed to the extent indicated. No costs.

8. The Insurance Company/the second respondent is directed to deposit a sum of Rs. 11,24,500/- as determined by this court along with interest at 7.5 % from the date of petition till the date of realisation, less the amount already deposited,if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter. It is also made clear that the claimants shall not be entitled to interest for the period of delay.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

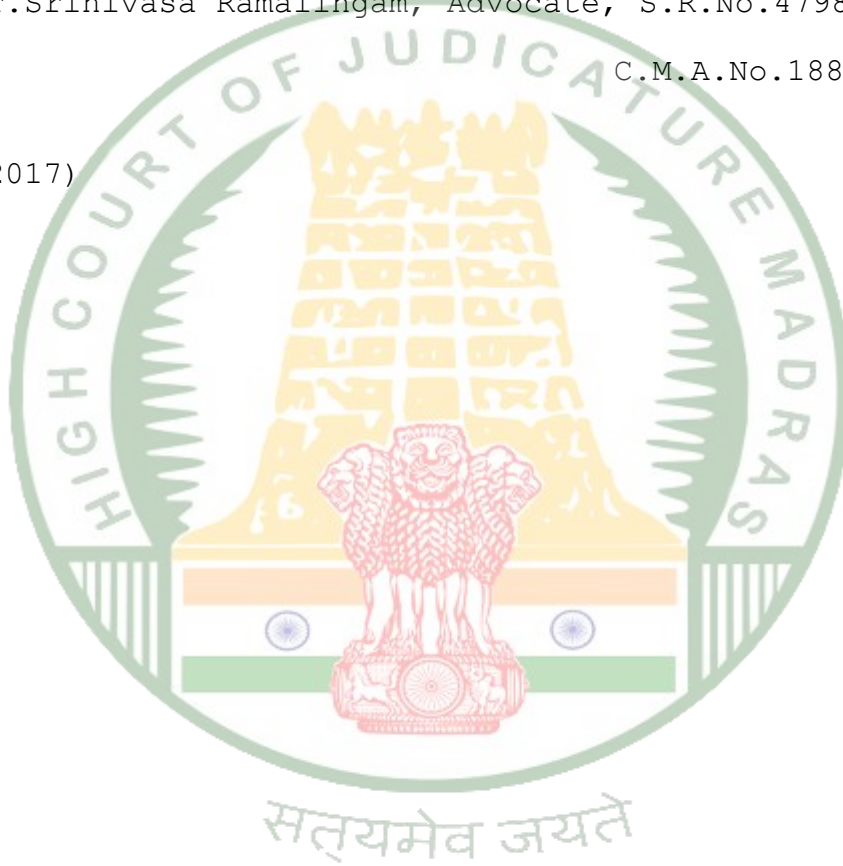
1. The Motor Accidents Claims Tribunal,
Chennai, (In the Chief Court of Small Causes,
Chennai).
2. The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No.48020

+1cc to Mr.Srinivasa Ramalingam, Advocate, S.R.No.47982

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AK(CO)
CA(14/09/2017)



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