

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM  
AND  
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1817 of 2014

The Branch Manager,  
Reliance General Insurance Company Ltd.,  
Branch Office, No.570,  
Rectifier House, Nalgaum Cross Road,  
Wadala (W), Trivendrum,  
Kerala State.

... Appellant

Vs.

1. Mohanapriya  
W/o.Late.Muralidharan
2. Minor Harini  
D/o.Late.Muralidharan
3. Minor Dharshini  
D/o.Late.Muralidharan
4. V.Shibu  
S/o.Vikraman Nadar
5. M.Pushpa  
W/o.Madhu
6. M.Madhu  
S/o.Podaiyan @ Madhan

.. Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 04.12.2013 made in M.C.O.P.No.552 of 2010 on the file of the learned Principal District Judge, Motor Accidents Claims Tribunal, Krishnagiri.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.C.Prabakaran for RR1 to 3  
Mr.M.Selvam for RR4 to 6

JUDGMENT

[Judgement of the Court was delivered by C.T.SELVAM, J]

This Civil Miscellaneous Appeal has been preferred against the award and decree dated 04.12.2013 made in M.C.O.P.No.552 of 2010 on the file of the learned Principal District Judge, Motor Accidents Claims Tribunal, Krishnagiri.

2. Appellant is the Insurance Company. Respondents 1 to 3 and 5 and 6 are legal heirs of one Muralidharan, who died owing to an accident involving a car bearing registration No.KL-01/AP-890 and the motor cycle driven by deceased, on 11.03.2009 at about 21.30 hours. Fourth respondent is the owner of the car.

3. Before the Tribunal, on the side of respondents/claimants, 3 witnesses were examined and 9 exhibits were marked. On behalf of the appellant/Insurance Company, one witness was examined and one exhibit was marked.

4. On appreciation of materials before it, Tribunal, under judgement dated 04.12.2013, found that the death has occurred owing to the rash and negligent driving of the car.

5. Heard learned counsel for appellant/Insurance Company and learned counsel for respondents.

6. Considering rival submissions and materials on record, we concur with the finding of the Tribunal that the accident had occurred owing to rashness and negligence on the part of the fourth respondent, the owner and driver of the car. Learned counsel for appellant submits that the compensatory allowance and incentives payable to the deceased stood included by Tribunal in determining his monthly income and they are to be deleted.

7. After correcting such error, the amount payable is as follows:-

- |                                 |                  |
|---------------------------------|------------------|
| (a) Monthly income              | : Rs. 18,449/-   |
| (b) Loss of Dependency          |                  |
| [18449X12+50/100-1/4 X 16]      | : Rs.39,84,984/- |
| (c) Funeral Expenses            | : Rs. 25,000/-   |
| (d) Loss of Consortium (R1)     | : Rs. 1,00,000/- |
| (e) Loss of Love and Affection: | Rs. 4,00,000/-   |
| (RR2, 3, 5 & 6) Each            | Rs.1,00,000/-    |

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Rs.45,09,984/-  
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10. The Civil Miscellaneous Appeal is partly allowed. The entire amount payable, less that already deposited, shall be deposited in keeping with the present order, within a period of six weeks from the date of receipt of a copy of this Judgment, after adjusting the amount, if any already deposited by Appellant/Insurance Company. No costs.

Sd/-

Assistant Registrar(CS-vii)

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Sub Assistant Registrar

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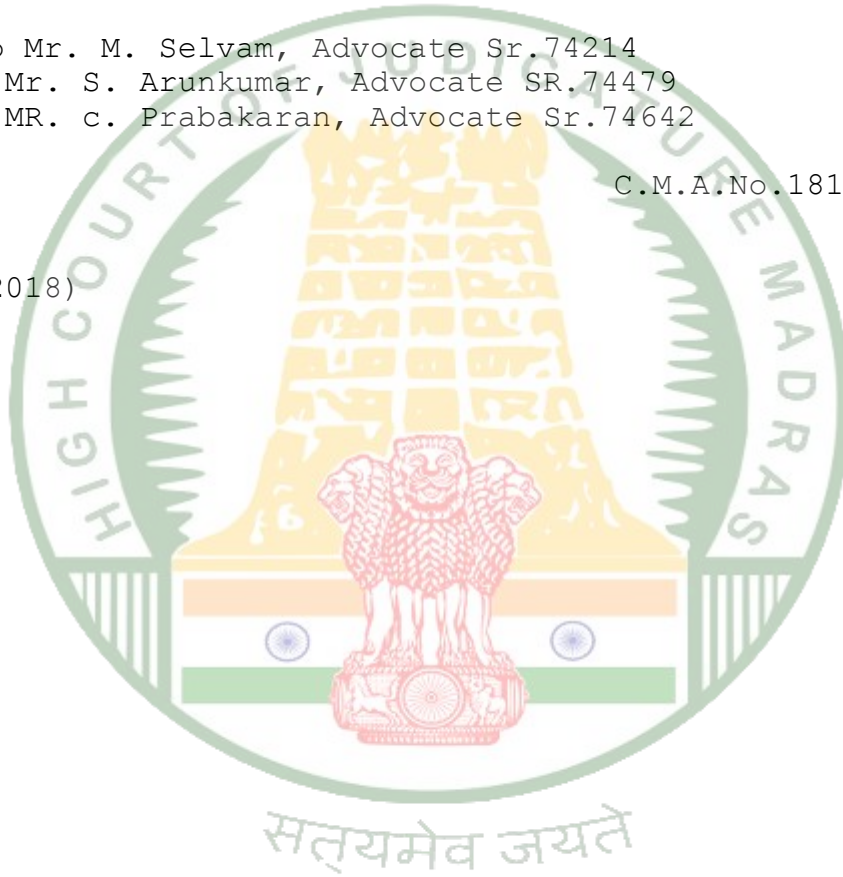
1. The Principal District Judge,  
Motor Accidents Claims Tribunal,  
Krishnagiri.

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

+ 1 cc to Mr. M. Selvam, Advocate Sr.74214  
+ 1 cc to Mr. S. Arunkumar, Advocate SR.74479  
+ 1 cc to MR. c. Prabakaran, Advocate Sr.74642

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lrs (CO)  
EU (29/01/2018)



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