

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2582 of 2014

1. V.Ramakrishnan
2. Mrs. A.Alamelu
3. Mr. A.V.Sundarajan (Deceased) ... Appellants/Claimants

..Vs..

1. M.P.Murugan
2. ICICI Lombard General Insurance Co. Ltd.,
No.140 Nungambakkam High Road,
Chennai 600 034
(R-1 exparte before Lower Court, hence,
notice to R-1 is dispensed with) ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 10.01.2013, made in MCOP No.3072 of 2009 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellants : Mr. V.Mohan Choudary

For Respondents: Ms. R.Sreevidhya, for R-2,
R-1 Exparte.

J U D G M E N T

The husband, mother and father of the deceased, Vijayalakshmi, has filed the claim petitions for compensation. The deceased was aged 39 years, working as a Computer Data Entry Operator and earning a sum of Rs.10,000/- per month. Though the claimants made a claim for a sum of Rs.14,00,000/-, the Tribunal has awarded a sum of Rs.9,21,713/-. Challenging the quantum of compensation as inadequate, the claimants have filed this Appeal.

2. According to the learned counsel appearing for the claimants / appellants, when the deceased was a Diploma Holder, i.e., P.G.Diploma in Computer Education, the income fixed by the Tribunal at Rs.6,000/- per month, is inadequate. It is also

pointed out that 50% towards the future prospective increase in income has not been added and it should have been added, especially when the deceased was aged only 39 years.

2.1. The learned counsel appearing for the second respondent / Insurance Company would point out that as per the date of Birth (noted as 06.06.1969) the deceased was aged 41 at the time of accident and therefore, it is a case where multiplier of 15 alone should have been adopted.

2.3. Considering the submissions made by the learned counsel on both sides, taking the monthly income at Rs.6,000/-, adding Rs.3,000/- towards the future prospective increase in income and deducting 1/3rd towards the personal expenses, the monthly dependency would be Rs.6,000/-. Adopting the multiplier of 14, taking the age as 41, the loss of dependency would be Rs.10,08,000/- (Rs.6,000x12x14). The medical expenses has been awarded at Rs.1,51,713/-, rounded off to Rs.1,52,000/-. Funeral expenses is awarded at Rs.25,000/-. Loss of consortium to the husband is fixed at Rs.50,000/-, loss of love and affection to the second claimant / mother is fixed at Rs.1,00,000/-. Loss to the estate for having taken treatment for 4 days is fixed at Rs.20,000/-. Thus, the total amount of compensation would be Rs.13,55,000/-.

3. The compensation is payable to the husband, the mother and the father of the deceased. During pendency of the Appeal, the father died leaving behind the mother / second appellant as the legal heir. Therefore, the compensation payable to the father should be paid to the mother. But the extent of the dependency on the father and mother of the deceased is not known. Therefore, apportionment is made between the first and second appellants at Rs.5,55,000/- and Rs.8,00,000/-, respectively.

4. In the result, this Civil Miscellaneous Appeal is allowed, by enhancing the total compensation from Rs.9,21,713/- to Rs.13,55,000/- and this amount of compensation shall be deposited by the second respondent / Insurance Company, less the amount already deposited, 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. On such deposit being made, the first appellant / first claimant / husband is entitled to withdraw a sum of Rs.5,55,000/-, with proportionate interest and the second appellant / second claimant / mother is entitled to withdraw a

sum of Rs.8,00,000/-, with proportionate interest. No costs. The claimants shall pay the deficit court fee for the enhanced compensation.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk

To

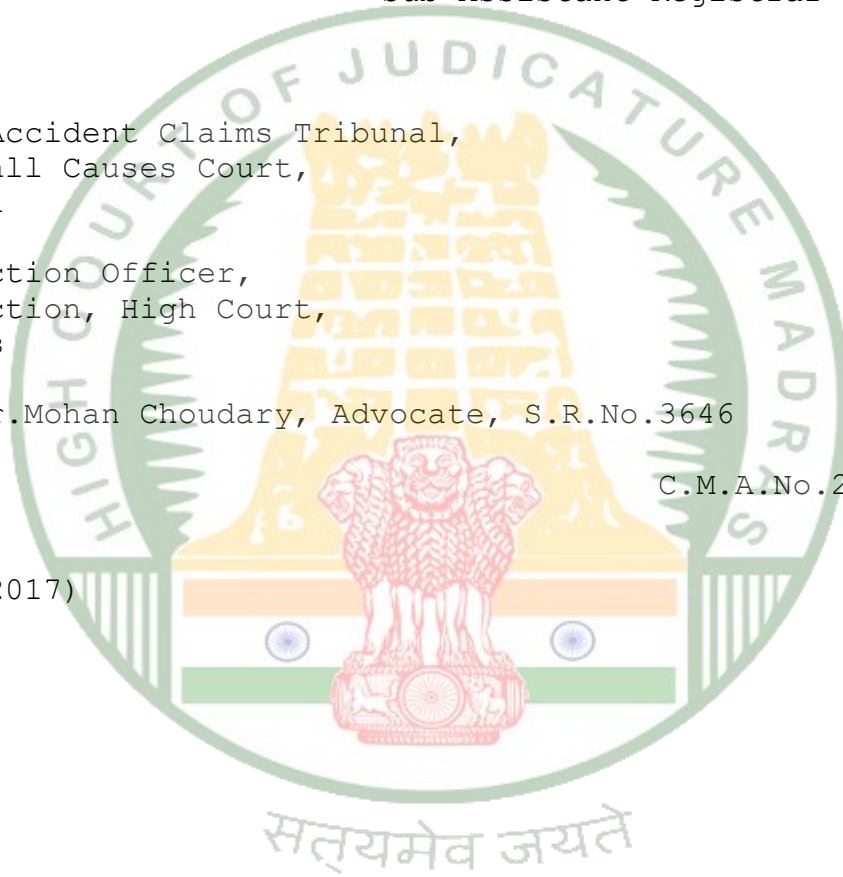
1. Motor Accident Claims Tribunal,
III Small Causes Court,
Chennai

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

+2cc to Mr.Mohan Choudary, Advocate, S.R.No.3646

C.M.A.No.2582 of 2014

KJI (CO)
RS (13/04/2017)



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