

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.302 of 2017

1. Amsa

2. M.Saravanan

3. M.Geetha

4. M.Suresh Kumar

5. Minor M.Chellakumar

(Minor is represented by his mother Amsa)

... Appellants/Petitioners

Vs.

1. K.Rajendran

2. The New India Assurance Company Ltd.

Rep. by its Manager,

11, EVN Road, Erode.

... Respondents/Respondents

(R1 was set ex parte before the Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.01.2010 made in M.A.C.T.O.P.No.559 of 2009 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Thiruvallur.

For Appellants : Mr.F.Terry Chellaraja

For R2 : Mr.Manohar

For R1 : Exparte

JUDGMENT

In respect of death of one Munusamy, who was aged 42 years, who was working as Fitter, earning a sum of Rs.6,000/- p.m., in the accident on 26.07.2000, the wife, daughters and son of the deceased filed a claim petition before the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Thiruvallur, claiming compensation of Rs.8,00,000/-.

1.1. As against the claim made, the Tribunal, after considering the oral and documentary evidence, has awarded the compensation of Rs.3,75,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization. The details of the award run as under:

Loss of Future income	-	Rs.3,60,000/-
Loss of love and affection	-	Rs. 10,000/-
Loss of consortium	-	Rs. 5,000/-

Total	-	Rs.3,75,000/-

Challenging the award amount as inadequate, the claimants have filed this appeal.

2. The learned counsel appearing for the claimants/appellants would submit that the Tribunal, while quantifying the compensation towards loss of dependency, ought to have considered the total number of dependents of the deceased and ought to have deducted 1/4th towards personal expenses instead of 1/3rd and also ought to have awarded more compensation towards loss of love and affection to the children and loss of consortium to the wife. Hence, the award requires interference.

3. The Tribunal, based on the Postmortem certificate, has taken the age of the deceased as 42 years and it has mentioned that except the postmortem certificate, there was no other document to show the age of deceased and also based on the salary certificate, produced by the claimants, has taken the salary at Rs.3890/-.

3.1. Considering future prospective increase in income at 30% and deducting 1/4th towards personal expenses of the deceased, the appropriate compensation should be quantified by adopting the following calculation:

Monthly income - Rs.3890/-
Multiplier - 14
Loss of dependency = Rs.6,37,182/- (Rs.3890 + 30% x 12 - 1/4 x 14).

3.2. Considering the fact that there are totally five dependents, loss of consortium as well as loss of love and affection for all of them together is estimated at Rs.2,00,000/-, funeral expenses at Rs.25,000/-. The award is enhanced from Rs.3,75,000/- to Rs.8,62,182/-.

4. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the award from Rs.3,75,000/- to Rs.8,62,182/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization, (less the interest for the default period if any)

5. The Insurance Company is directed to deposit the entire amount of compensation, less the amount already deposited if any, with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks from the date of petition till the date of realization (less the interest amount for the default period if any). On such deposit being made, the major claimants are permitted to withdraw their share of the amount as per the ratio of the apportionment made

by the Tribunal. The minor's share shall be deposited in fixed deposit in any one of the Nationalized Bank for a period of three years, till he attains majority. The mother of the minor is permitted to withdraw the accrued interest thereon once in three months. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ogy

To

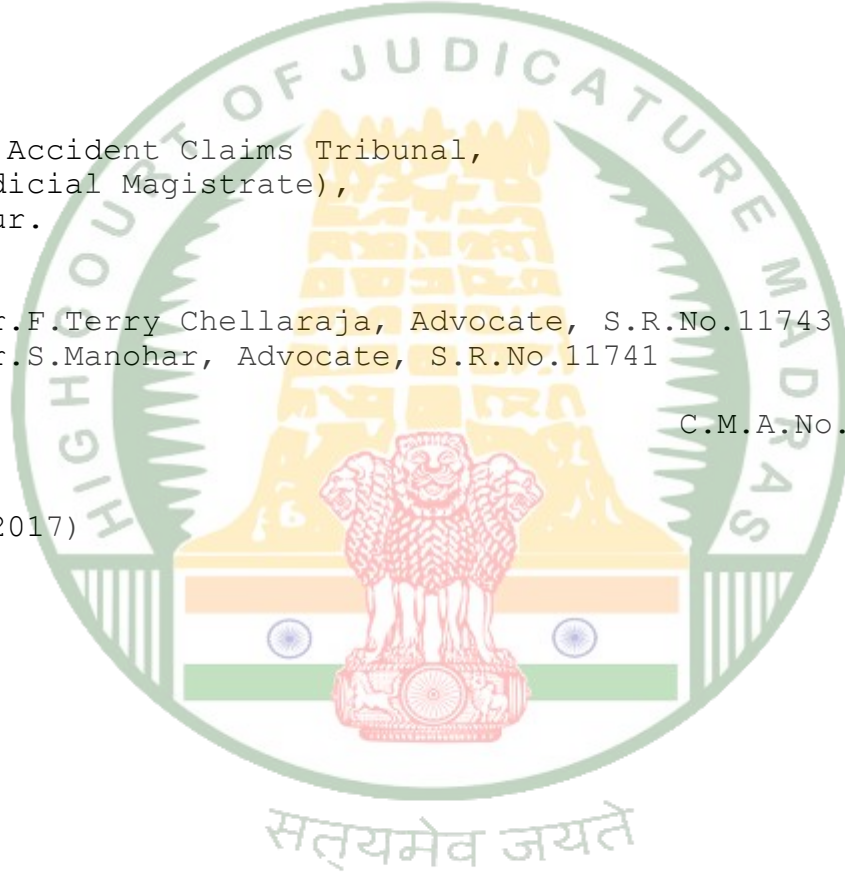
The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate),
Thiruvallur.

+1cc to Mr.F.Terry Chellaraja, Advocate, S.R.No.11743

+1cc to Mr.S.Manohar, Advocate, S.R.No.11741

C.M.A.No.302 of 2017

PPA(CO)
CA(14/07/2017)



WEB COPY