

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2017

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A.No.3469 of 2014

M.P.No.1 of 2014

National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai-2.

... Appellant

Vs.

Indhira (Since deceased)

1. Gabriel Sundaram

(Proposed 2nd petitioner legal
Representative of the deceased
petitioner) (Impleaded as per
order in M.P.No.830/13 dated
02.04.2013)

2. Narayanamoorthi

... Respondents

Prayer:- Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award and decree dated 05.02.2014 made in M.C.O.P.No.517 of 2011 on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.L.Rajasekar for R2

JUDGMENT

The insurance company before the Tribunal has come forward with this appeal challenging in essence the quantum of compensation awarded by the Tribunal.

2. On 06.01.2011, one Indhira, aged about 60 years, the mother of the claimant, while walking along GST Road in East Tambaram, was knocked down by a car bearing No.TN-22-BV-5022 owned by the first respondent and insured with the appellant. In the said accident she suffered grievous injuries to her left leg. After taking treatment, she died on 14.02.2011, after 38 days to be precise, from the date of accident. Seeking a compensation of Rs.6,00,000/-, her son approached the Tribunal. After considering the evidence adduced on either side, the Tribunal

has passed an award for Rs.3,84,000/- together with interest at 7.5% per annum.

3. Before this Court, the learned counsel for the appellant has raised only two points: (a) That the claimant has failed to establish any nexus between the injury suffered by the victim and her unfortunate death; (b) That the Tribunal has unreasonably fixed a higher compensation amount in spite of the fact that no evidence was adduced to establish the income of the victim, yet the Tribunal has notionally fixed Rs.4,500/- as monthly income of the victim.

4. In this appeal, the claimant has not yet been served with notice. However, this Court has decided to dispose it off on its own merits without prejudice to any right of the claimant that flows out of the impugned award.

5. The victim was aged about 60 years and admittedly she had suffered injuries in the accident. In the accident the victim's left leg had been been fractured and she sustained injuries on the whole of the body. It is nobody's case that she had recovered fully from psychological and physical consequences of the accident. Considering the injuries sustained and the treatment undergone by the victim from the date of accident, the mental agony that might have suffered, this Court confirms the finding of the Tribunal that victim had died due to the injuries she had suffered in the accident.

6. So far as the quantum of compensation is concerned, even though the victim was only a home maker, still her service to the family has to be justly valued. Coming to the fact that the accident had taken place in the year 2011, a sum of Rs.4,500/- fixed as her contribution to the family appears to be reasonable. The Tribunal had also deducted 1/3rd amount towards the personal expenses of the victim and applied multiplier of 9 proportionate to the age of the victim, and has determined the pecuniary loss of support that she might have contributed to her family at Rs.3,24,000/-. On the head of love and affection the Tribunal has awarded a sum of Rs.50,000/- and towards funeral expenses a sum of Rs.10,000/-. Nevertheless, the Tribunal has not granted any amount towards pain and suffering, which the victim would have been forced to undergo. Having considered the over all picture of the oral evidence and the relevant records, this Court finds that the award of the Tribunal is in order and does not call for any interference.

7. In the result, the appeal is dismissed. The appellant is directed to deposit the compensation of Rs. 3,84,000/- along with accrued interest as determined by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of the receipt of copy of this Judgement, and on

such deposit being made, the claimant is entitled to withdraw the same forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

rts

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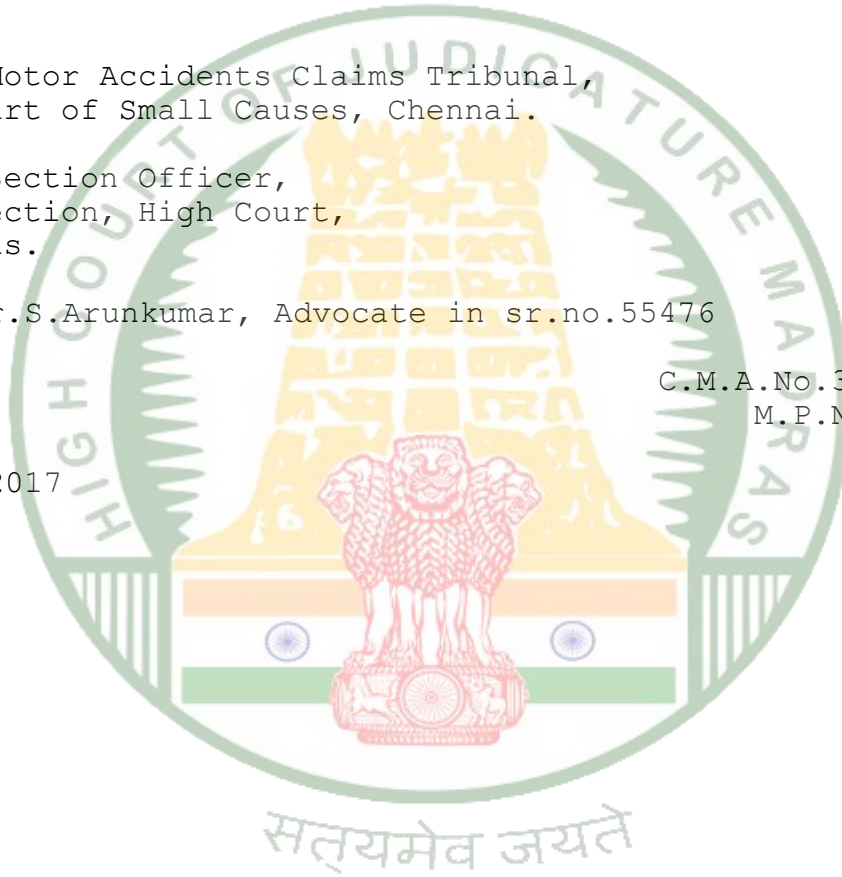
1 The Motor Accidents Claims Tribunal,
V Court of Small Causes, Chennai.

2 The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.S.Arunkumar, Advocate in sr.no.55476

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NR 21/09/2017



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