

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.603 of 2017

and

CMP.No.3504 of 2017

1. United India Insurance Co, Ltd.
represented by Branch Manager,
2/178, Kumaran Ckoplex,
Erode Road Perundurai,
Erode 638 052.
- 2 . United India Insurance Co. Ltd.,
Represented by Branch Manager,
S.R.S.Towers, Mettur Main Road,
Bhavani. ... Appellants/Respondent 2 & 3

Vs.

1. Aalammal
 2. Muthusamy
 3. Muthulakshmi
 4. Thangaraj
 5. Palaniammal
 6. Selvi
 7. Sakthivel
 8. Vellaisamy
 9. P.Ravikumar
- ... Respondents 1-8/petitioner
- ... 9th respondent/Respondent

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and decree dated 30.09.2015 made in MCOP.No.599/2013 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Bhavani, Erode District.

For Appellants : Mr.C.Paranthaman

For Respondents 1 to 8 : Mr.C.Kulanthaivel

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, IV Additional District Court, Bhavani, Erode District, in M.C.O.P.No.603 of 2017, on 30.09.2015, the Insurance Companies have come forward with this Civil

Miscellaneous Appeal.

2. The claimants are the legal heirs of the deceased Perumal, aged about 60 years and he was a coolie and was earning a sum of Rs.9,000/- per month and he met with an accident that occurred on 04.07.2013 and died on 26.07.2013. Hence, the claimants filed a Claim Petition in M.C.O.P.No.599 of 2013, seeking compensation for a sum of Rs.5,00,000/- with future interest.

3. The Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.10,53,400/-, with interest @ 7.5% per annum from the date of petition till the date of deposit.

4. The break-up details of the same are as follows:

Heads	Amount in Rs.
Pecuniary Loss Rs.6,000- $1/5=4800 \times 12 \times 9$	5,18,400
Love and affection for all 8 claimants	4,00,000
Consortium to wife	1,00,000
Loss of articles	5,000
Funeral Expenses	10,000
Transport Expenses	10,000
Medical Expenses	10,000
Total	10,53,400

5. Aggrieved by the said Award, the Insurance Companies have filed this appeal to set aside the Award passed by the Tribunal.

6. The learned Counsel for the appellants submitted that as per the death certificate Ex.P8, the age of the deceased is 69 years, and the multiplier 5 has to be applied, but, erroneously, the Tribunal has adopted the multiplier 9 and hence, the claim petition has to be dismissed.

7. A perusal of the award would go to show that the income of the deceased was fixed at Rs.6,000/- as he was a coolie and applied the multiplier of 9 by taking the age of the deceased as 60 years. But, as per the death certificate Ex.P8, the age of the deceased was 69 years at the time of accident and hence, the multiplier 7 has to be adopted. Hence, a sum of Rs.4,03,200/-

(Rs.6,000-1/5= 4800x12x7=4,03,200) is fixed as pecuniary loss. So far as the head under "funeral expenses", the award passed by the Tribunal is enhanced from Rs.10,000/- to Rs.25,000/. As far as the other heads are concerned, the amount fixed by the Tribunal are confirmed.

8. In fine, the amount of compensation awarded is reduced from Rs.10,53,400/- to Rs.9,53,200/-, as follows:

Heads	Amount in Rs.
Pecuniary Loss Rs.6,000-1/5=4800x12x7	4,03,200
Love and affection for all 8 claimants	4,00,000
Consortium to wife	1,00,000
Loss of articles	5,000
Funeral Expenses	25,000
Transport Expenses	10,000
Medical Expenses	10,000
Total	9,53,200

9. In the result, this Civil Miscellaneous Appeal is partly allowed, by scaling down the Compensation from Rs.10,53,400/- to Rs.9,53,200/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The appellants Insurance Company are directed to deposit the revised amount along with interest within a period of six weeks from the date of receipt of a copy of this judgment, if not deposited already. On such deposit, the claimants are entitled to withdraw the same forthwith. The excess compensation, if any paid by the appellant/Insurance Company, shall be withdrawn by them, after adjusting the compensation now awarded. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

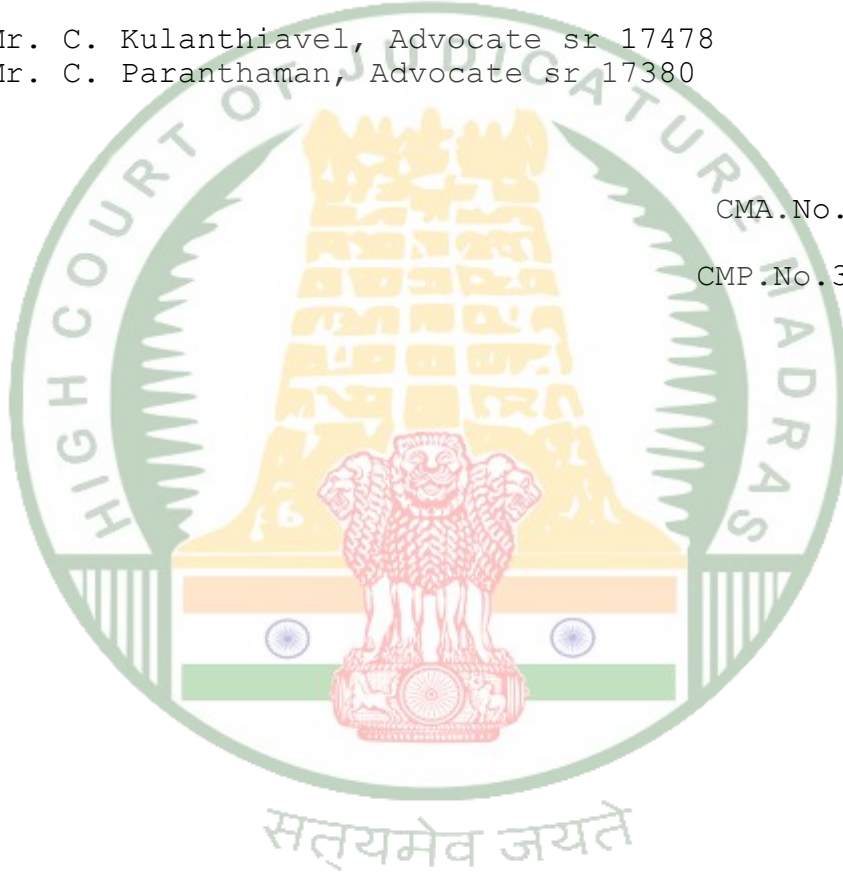
To

- 1 . The Additional District Judge,
Motor Accident Claims Tribunal,
IV Additional District Court,
Bavani, Erode District.
- 2 . The Record Keeper,
V.R.Section,
High Court, Madras.

+1 cC to Mr. C. Kulanthiavel, Advocate sr 17478
+1 CC to Mr. C. Paranthaman, Advocate sr 17380

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