

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.647 of 2017
and
C.M.P.No.3620 of 2017

The United India Insurance Co. Ltd.,
Pondicherry. Appellant / 2nd Respondent

versus

1. Ambujam
2. Ramalingam
3. Thangam ... Respondents 1 to 3 / Claimants
4. Vasudevan ... 4th respondent/1st respondent

(R4 remained ex parte before the
Tribunal)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 10.08.2007 made in M.C.O.P.No.208 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Chidambaram.

For Appellant	:	Mr.J.Chandran
For R1 to R3	:	No appearance
For R4	:	Exparte

JUDGMENT

One Mahalingam, aged about 45 years, running a tea stall and also doing idly business, earning a sum of Rs.4,500/- per month, died in the accident on 24.06.2002. So stating, the mother, brother and sister of the deceased filed a claim petition in M.C.O.P.No.208 of 2005 before the Motor Accident Claims Tribunal (Subordinate Judge) at Chidambaram, claiming compensation of Rs.8,00,000/-.

1.1. As against the claim made, the Tribunal has granted a sum of Rs.3,47,200/- as compensation, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the compensation read as under:

Loss of dependency	-	Rs.3,07,200/-
Loss of love and affection	-	Rs. 30,000/-
Funeral expenses	-	Rs. 10,000/-
Total	-	Rs.3,47,200/-

2. The Tribunal, based on the postmortem certificate, fixed the age of the deceased as 40 years and adopted the multiplier of '16'.

2.1. Fixing the monthly income of the deceased at Rs.2,400/-, deducting 1/3rd towards personal expenses, the Tribunal calculated the monthly dependency at Rs.1600/- and adopting multiplier of '16', calculated the loss of dependency at Rs.3,07,200/-. Awarding the compensation of Rs.10,000/- to each of the claimants on account of loss of love and affection and Rs.10,000/- towards funeral expenses, the total compensation has been awarded at Rs.3,47,200/-.

3. The learned counsel appearing for the appellant would submit that the deceased is a bachelor and in respect of a bachelor, the deduction of 1/3rd towards personal expenses is unjustified and the Tribunal should have adopted 50% deduction towards personal expenses.

3.1. This contention cannot be said to be completely incorrect. Under normal circumstances, in case of death of a bachelor, the normal deduction for personal expenses towards deduction of the deceased bachelor is 50%. But, in this case, the non-deduction of 50% did not result in any injustice to the appellant, because of the following reasons:

When the dependents are parents alone, then the deceased bachelor can be expected to spend 50% towards personal expenses. But, in the case of a family, consisting of more number of dependents, as in this case, the deceased/bachelor cannot spend 50% towards his personal expenses.

3.2. In any event, the Tribunal did not take into account the future prospective increase in income, while quantifying the compensation. If it had been done, even with 50% deduction towards personal expenses, the compensation awarded would not have been excessive. Therefore, the amount awarded by the Tribunal cannot be said to be excessive.

5. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 10.08.2007 passed in M.C.O.P.No.208 of 2005 by the Motor Accident Claims Tribunal (Subordinate Judge) at Chidambaram.

6. The Insurance Company is directed to deposit the entire award amount, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimants are entitled to withdraw their share of the amount as per the ratio of the apportionment made by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

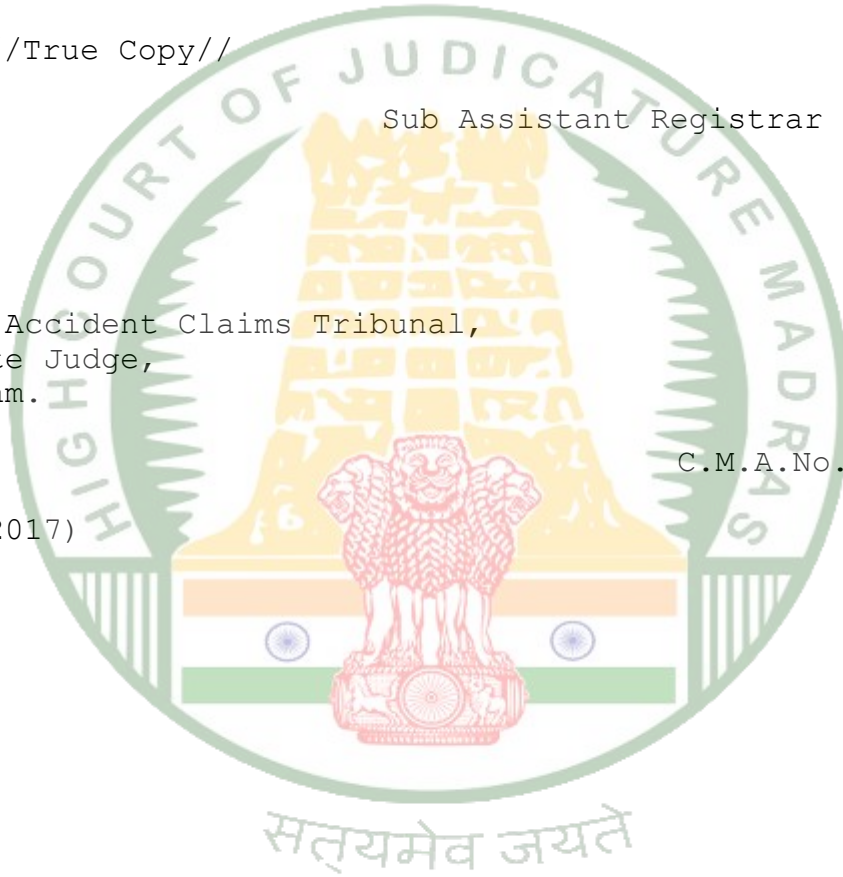
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To

The Motor Accident Claims Tribunal,
Subordinate Judge,
Chidambaram.

GJII(CO)
GN(12/07/2017)

C.M.A.No.647 of 2017



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