

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.812 of 2017

1. Chandra
2. Minor Gowtham
3. Minor Buvaneswari
4. Minor Aarthi
5. Minor Anandaraj
(Minors 2 to 5 are represented by
next friend and mother 1st petitioner) ... Appellants /
Claimants

Vs.

1. Ravi
2. V.Periyasamy
3. United India Insurance Company Ltd.,
Rep. by its Manager, Divisional Office,
No.2, Dr.Sankaran Road,
Namakkal-637 001.
4.United India Insurance Co. Ltd.,
Rep by its Manager, SRS Towers,
Mettur Mail Road, Bhavani, Erode District.
5.Palaniammal ... Respondents/ Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.11.2012 made in M.C.O.P.No.550 of 2010 on the file of the Motor Accident Claims Tribunal cum 4th Additional District Court, Bhavani, Erode District.

For Appellants : Mr.C.Kulanthaivel

For Respondents No:3 : Mr.T.Ravichandran

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.550 of 2010, dated 23.11.2012, the appellants have come forward with this Civil Miscellaneous Appeal.

2. The deceased Mr.Kumar, who was 33 years, a driver by profession earning a sum of Rs.10,000/- per month died in an accident that occurred on 06.10.2010. Hence, his wife and children has filed the Claim Petition before the Motor Accident Claims Tribunal, seeking compensation for a sum of Rs.25,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.6,39,000/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as under:

Pecuniary loss	-	Rs.6,12,000/-
Loss of Love and affection to all 6 claimants	-	Rs. 10,000/-
Consortium to wife	-	Rs. 10,000/-
Funeral Expenses	-	Rs. 5,000/-
Transport Expenses	-	Rs. 2,000/-
Total	-	Rs.6,39,000/-

4. The learned counsel for the appellants would submit that the the amount of compensation awarded by the Claims Tribunal is very low and the same needs to be enhanced.

5. The learned counsel for the respondents would submit that the compensation awarded by the Tribunal is reasonable and the same need not be interfered with.

6. This Court, upon hearing submissions made by the learned counsel appearing on either side and upon perusing the documents on record and is of the view that since the accident is of the year 2010, the tribunal ought to have fixed the reasonable notional income. Therefore, a sum of Rs.9,000/- is fixed as monthly income of the deceased and since out of six dependants four are minor children, 1/4th is deducted towards personal expenses as per the dictum laid down by the Hon'ble Apex Court in SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER reported in (2009) 4 MLJ 997 and by adopting the multiplier 16 a sum of Rs.12,96,000/- is awarded towards pecuniary loss and the compensation awarded towards Loss of

Love and affection to all the six claimants is enhanced from Rs.10,000/- to Rs.1,00,000/- . Loss of consortium to wife is enhanced from Rs.10,000/- to Rs.1,00,000/-. Funeral expenses is enhanced from Rs.5,000/- to Rs.25,000/- and Transport Expenses is enhanced from Rs.2,000/- to Rs.10,000/-.

7. In the result, this appeal is partly allowed enhancing the amount of compensation from Rs.6,39,000/- to Rs.15,31,000/- as follows:

Pecuniary loss (6750x12x16)	-	Rs.12,96,000/-
Loss of Love and affection to all 6 claimants	-	Rs. 1,00,000/-
Consortium to wife	-	Rs. 1,00,000/-
Funeral Expenses	-	Rs. 25,000/-
Transport Expenses	-	Rs. 10,000/-
Total	-	Rs.15,31,000

8. The Compensation amount shall carry interest @ 7.5% per annum from the date of petition till the date of deposit. Insurance Company is directed to deposit the entire amount of compensation within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first claimant permitted to withdraw her share as apportioned by the tribunal and the shares of the claimants 2 to 5, who are minors shall be deposited in any one of the nationalised banks till they attain majority and the first claimant is permitted to withdraw the interest once in three months. No costs. For the enhanced amount of compensation the claimants are directed to pay the requisite Court fee.

Sd/-

सत्यमेव जयते
Assistant Registrar

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Sub Assistant Registrar

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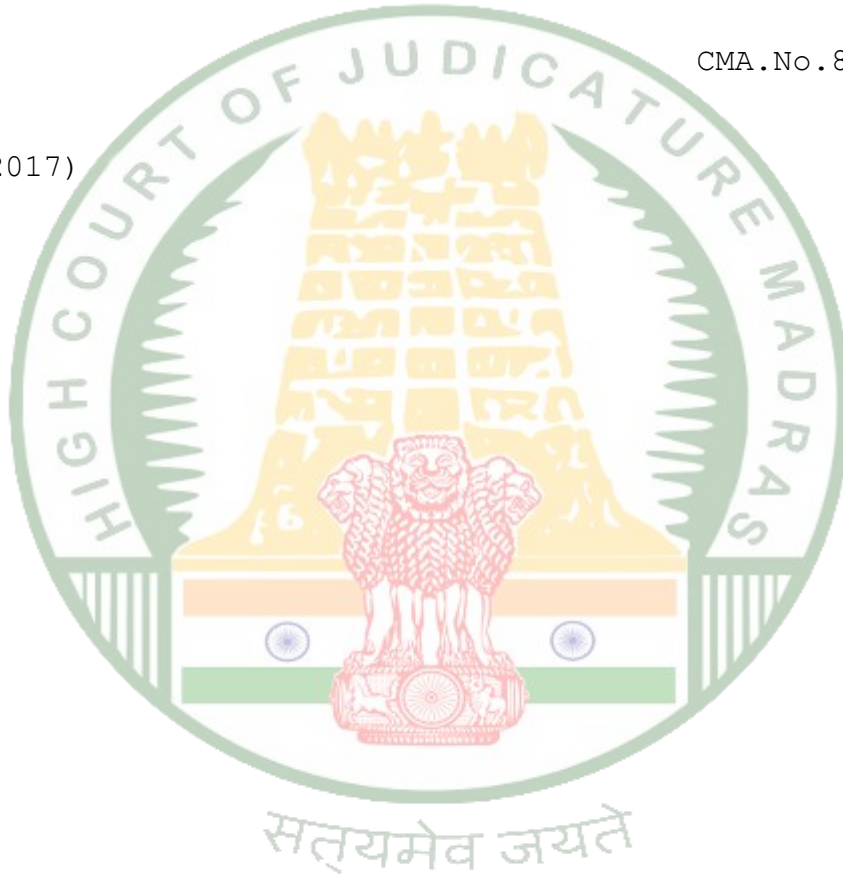
To

The 4th Additional District Judge
(Motor Accident Claims Tribunal),
Bhavani, Erode District.

+1cc to Mr.Kulanthaivel, Advocate, S.R.No.16735
+1cc to Mr.Ravichandran, Advocate, S.R.No.16832

CMA.No.812 of 2017

TM(CO)
RS(24/04/2017)



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