

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.01.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.1359 of 2009 and M.P.No.1 of 2009

The New India Assurance Co., Ltd.,
No.12, New Hospital Road,
Gobichettipalayam. ... Appellant/4th Respondent

Vs.

1. Renuka Devi
2. Sanjai (Minor)
3. Shivani (Minor)
4. Marichamy Gounder
5. Chinnammal @ Devathal
6. Nagaraj
7. Mohamed Saleem
8. D.Manoharan
9. The New India Assurance Co., Ltd.,
Kovai Main Road, Annur,
Coimbatore District.... Respondents/Petitioners
1 to 5, Respondents 1,2,3 & 5
(6th & 7th respondents set exparte before Lower Court, 9th
respondent, Given up)

Prayer:- The Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.07.2007 made in MACT O.P.No.879 of 2004 on the file of the Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court No.5), Coimbatore at Tirupur.

For Appellant : Mr.M.Krishnamoorthy
For RR1 to 5 : Mr.M.J.P.Rajkumar for
Mr. V. Anandamoorthy
For RR6 & 7 : set exparte
For R9 : Given up

JUDGMENT

The Insurance Company has come forward with this appeal challenging the quantum of compensation awarded in an accident in which a driver of a car was fatally hit by a lorry. There were other inmates in the car, who sustained injuries. For the death of the owner-cum-driver of the car his widow, two children and parents have moved the Tribunal with the claim of Rs.50,00,000/- as against which, the Tribunal has awarded for Rs.9,40,280/- payable with interest at 7.5% per annum.

2. Before this Court, the learned counsel for the appellant contended that on the basis of Ext.-A7 to Ext.-A9, documents pertaining to payment of income tax, the Tribunal has reckoned the annual income of the victim at Rs.73,260/-. The victim was said to be running a shop but no evidence has been produced to show that he was actually doing some business. Further, in selecting the choice of multiplier, the Tribunal opted for one that commensurate, not with the age of the deceased, but that of his widow, which apparently is an egregious error.

3. Per contra, the learned counsel for the claimants would contend that it is not so much about what business the victim was engaged in, but it was all about what income he made, and none of Ext.-A7 to Ext.-A9 were disbelieved either by the Tribunal or disputed seriously even by the Insurance Company during enquiry. He also added that on other conventional heads too, the Tribunal has been unduly parsimonious.

4. On considering the rival submissions and upon perusal of materials available on record, I find that eventhough there is some error in the choice of multiplier adopted or in the amount to be deducted towards personal expenses of victim if the ratio in Sarala Varma & Other Vs. Delhi Transport Coporation & another [2009(2) TNMAC 1] is to be followed, then the compensation payable on this head along with enhancement which is deserved to be given for the conventional heads of compensation, I do not find much variants in the amount awarded by the Tribunal.

5. Accordingly, I find no merit in this appeal and confirm the award passed by the Tribunal in M.C.O.P. No.879 of 2004. The appellant is directed to deposit the award amount, less any amount already deposited, within four weeks from the date of receipt of a copy of this order, whereupon the claimants would be free to withdraw the same forthwith. If any of the children of the victim still continue to remain minor, the amount awarded

to them shall be deposited in any one of the nationalized bank till they attain majority. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

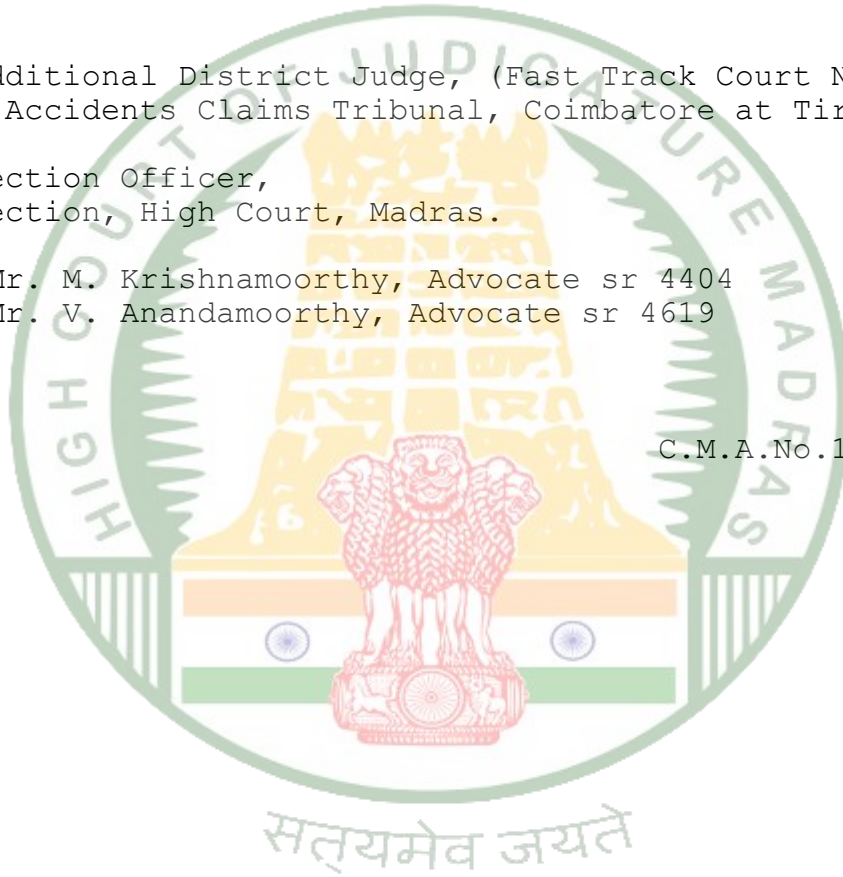
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To

1. The Additional District Judge, (Fast Track Court No.5), Motor Accidents Claims Tribunal, Coimbatore at Tiruppur
2. The Section Officer,
V.R.Section, High Court, Madras.

+1 CC to Mr. M. Krishnamoorthy, Advocate sr 4404
+1 CC to Mr. V. Anandamoorthy, Advocate sr 4619

C.M.A.No.1359 of 2009

PA (CO)
sp/9/3



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