

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CMA.No.2205 of 2012

and

M.P.1 of 2012

Reliance General Insurance Co.Ltd.,
Branch Office,
Krishna Mahal, 2nd floor,
New No.41, 8th street, Tatabad,
Coimbatore 641 012.

... Appellant/2nd Respondent

Vs.

1. Rajeswari

2. Eswaran

3. Kanaka

4. Santhi

5. Sakthivel

Nagalakshmi (died)

... Respondents 1 to 5/ Petitioners

6. D.Shanmugam

... 6th Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.228 of 2008, dated 19.11.2009, on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.IV, Bhavani, Erode District.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.E.C.Ramesh for R1 to R5
No appearance for R6

JUDGMENT

The Insurance Company/2nd respondent in M.C.O.P.No.228 of 2008 on the file of Motor Accidents Claims Tribunal, Additional District Court & Fast Track Court No.IV, Bhavani, Erode District) is the appellant.

2. The claim petition has been filed by respondents 1 to 5 claiming compensation for the death of one Venugopal who died in an accident which occurred on 17.05.2007. The Tribunal awarded a total compensation of Rs.5,00,400/- as against the claim of Rs.7,00,000/-. Questioning the quantum, the Insurance Company has come on appeal.

3. It is not in dispute that the vehicle involved in the accident was insured with the appellant. The accident had occurred on 17.05.2007. The victim was aged 50 at the time of accident. His income was fixed at Rs.3,600/- and he was said to be a power loom worker (@Rs.120 per day).

4. The learned counsel for the appellant would submit that the Tribunal erred in fixing the income at Rs.3,600/- per month without any basis. Further, the learned counsel would contend that though there were six dependants on the deceased, instead of deducting 1/5th of his income towards personal expenses of the deceased, the trial Court has deducted only 1/3rd of the income towards personal expenses. Therefore, according to the learned counsel for the appellant, the impugned award calls for interference.

5. On a perusal of records, it is seen that there is evidence to show that he was a power loom worker and it can be safely held that the wages of the power loom worker would be in the range of Rs.125 - 150/-. Therefore the Tribunal was correct in fixing the monthly income of the deceased at Rs.3,600/- and loss of dependency was fixed at Rs.3,74,400/- which appears to be very reasonable. The Tribunal granted Rs.1,00,000/- under the head of love and affection. It has awarded Rs.20,000/- only for loss of consortium to the first respondent. The trial Court has awarded a reasonable sum of Rs.5,000/- towards funeral expenses and Rs.1,000/- for transportation. Amounts awarded under other heads also appear to be reasonable. Hence, I am satisfied that the compensation awarded by the Tribunal is just and reasonable and the same is confirmed. The Civil Miscellaneous Appeal stands dismissed. The claimant shall be entitled to withdraw the award amount lying to the credit of the claim petition. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

dpq

To

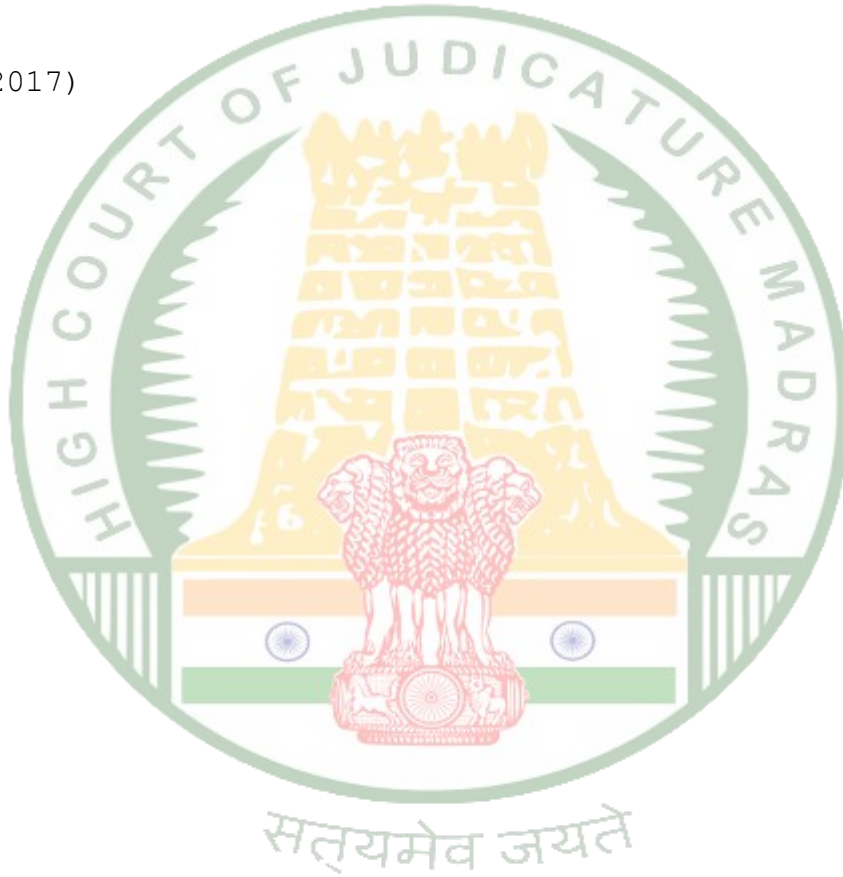
1. The Motor Accidents Claims Tribunal,
Additional District Court,
Fast Track Court No.IV,
Bhavani, Erode District.

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

+1cc to Mr.M.B.Gopalan, Advocate, S.R.No.14288
+1cc to Mr.E.C.Ramesh, Advocate, S.R.No.13771

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VSN(CO)
CA(07/04/2017)



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