

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.749 of 2009

1. S.Sakunthala
2. S.Sagayam @ Deva
3. S.Gowri
4. S.Gopi
5. S.Santhi
6. S.Lakshmi
7. S.Venkatesan
8. S.Ganesh
9. S.Narayanan
- 10.S.Karthick

... Appellants

Vs.

1. T.Rani

2. United India Insurance Co. Ltd.,
No.83, Anna Salai,
Chennai-2.

... Respondents

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.3708 of 2003 dated 30.04.2008 on the file of Additional District Sessions Judge, V Fast Track Court, Chennai and to set aside the same.

For Appellants : Mr.A.Shanmugaraj

R1 : Served

For R2 : Mr.C.Paranthaman

JUDGMENT

The appellants are the claimants. The 1st claimant Sakunthala is the wife of one D.Srinivasan, who died in a motor accident on 11.11.2002. He was a carpenter by profession. The other appellants are the children of the deceased. The age of the deceased was 50 years at the time of the accident. The claimants claimed a total compensation of Rs.5,00,000/-. In support of the claim, the claimants marked 5 documents and the 1st petitioner has examined herself and two more witnesses. No

evidence has been filed on the side of the respondents.

2. The Tribunal, on consideration of materials, has awarded a total compensation of Rs.4,25,000/-. The compensation was directed to be paid with 9% interest from the date of the claim petition.

3. The claimants have preferred this appeal for enhancement of compensation. The Tribunal had fixed the monthly income of the deceased, who is said to be a carpenter, at Rs.4,000/-p.m. It has awarded Rs.10,000/- to the 1st petitioner/wife towards loss of consortium, Rs.5,000/- towards loss of love and affection, Rs.10,000/- towards funeral and other incidental expenses.

4. The learned counsel for the appellant would contend that the Tribunal ought to have fixed the monthly income of the deceased at Rs.6000/- as the deceased was a carpenter and as such he is a skilled labour. He has also pointed out that future prospects of the deceased was not taken into account by the Tribunal.

5. The learned counsel for the respondents submitted that the Tribunal, on the basis of the materials, has correctly fixed the monthly income at Rs.4,000/- and it does not require any modification.

6. The 1st petitioner gave evidence that the deceased was a carpenter and was earning Rs.200/- per day. There is no contra evidence to reduce the monthly income of the deceased. As the deceased was a carpenter, he would have earned at Rs.200/- per day. It would be difficult to expect a carpenter to have documents for his income. Therefore, the monthly income of the deceased should be fixed at Rs.6,000.

7. There are 9 dependents on the deceased at the time of the accident. The Tribunal deducted 1/3 of the income for his personal living. Having regard to the number of dependents, I am inclined to deduct 1/4 towards his personal expenses.

8. The Tribunal has awarded a sum of Rs.10,000/- towards loss of consortium. The deceased was aged 50 and the 1st petitioner/wife was aged 45 at the time of the accident. The Tribunal awarded only a lesser amount under this head. I deem it fit to award a sum of Rs.30,000/- under this head.

9. The deceased left behind three minor children. The Tribunal awarded only Rs.5000/- for the loss of love and affection. As there are three minor children I am inclined to award Rs.10000/- under this head.

10. The Tribunal allowed Rs.10,000/- towards funeral and other incidental expenses. No amount was allowed for transport. The claimants would have incurred expenses towards transport of the body to hospital and from there to their home. Therefore, I am inclined to enhance the amount from Rs.10,000/- to Rs.15,000/- under this head.

11. In view of the above discussion, the compensation is to be calculated as follows:-

Heads	Calculation
Loss of dependency Salary	Rs.6000/- p.m.
1/4 deducted as personal expenses of the deceased	$6000 \times \frac{1}{4} = 1500$ (6000-1500=4500)
Compensation after multiplier of 13 is applied	$4500 \times 12 \times 13 = 7,02,000$
Loss of consortium	Rs.30,000
Loss of Love and affection	Rs.10,000
Funeral expenses	Rs.15,000
Total compensation enhanced	Rs.7,57,000/-

9. In the result, the Civil Miscellaneous Appeal is allowed to the extent as indicated above. The 2nd respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.7,57,000/- [Rupees Seven Lakhs and Fifty seven thousand only] with interest @ 7.5% per annum and costs, less the statutory deposit, to the credit of M.C.O.P.No. 3708 of 2003 on the file of the Motor Accidents Claims Tribunal Additional District Sessions Judge, V Fast Track Court, Chennai, within a period of six weeks from the date of receipt of a copy of this order. The claimants are permitted to withdraw the enhanced compensation amount awarded by this Court with proportionate interest less the amount already withdrawn, if any, by making necessary application before the Tribunal. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CO)
//True Copy//

Sub Assistant Registrar

kmi

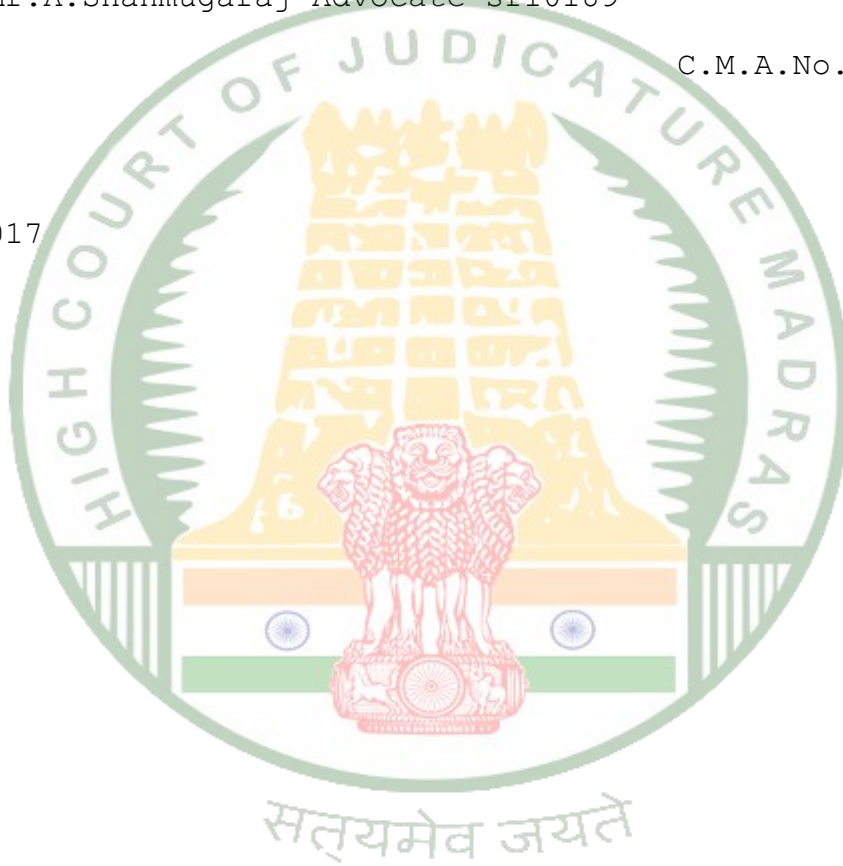
To:

1. The Additional District Sessions Judge,
V Fast Track Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1 cc to Mr.C.Paranthaman Advocate sr 9980
+1 cc to Mr.A.Shanmugaraj Advocate sr10189

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