

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1828 of 2017
(C.M.A. S.R.No.20478 of 2009)
and
CMP.9852 of 2017

The Manager,
ICICI Lombard General Insurance,
Chotabai Centre,
140, Nungambakkam High Road,
Chennai 34

... Appellant

Versus

1.V.Krishnamoorthy
2.T.N.Anandanarayan

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.09.2008 made in MCOP.No.750 of 2007 on the file of the Motor Accident Claims Tribunal(Principal District Judge) at Thiruvallur.

For Appellant : Ms.Sreevidhya

JUDGMENT

Application to condone the delay of 34 days in filing the above appeal is taken along with the main appeal.

2. The claim Petition was filed by one Krishnamoorthy in respect of death of his mother V.Lakshmi who died in the accident on 13.06.2007. The petitioner/1st respondent is the son of the deceased who has filed the claim petition for grant of compensation of Rs.3,50,000/-. The Claims Tribunal granted a sum of Rs.2,00,000/- as compensation. Challenging the same the insurance company has filed this appeal.

3. The learned counsel for the appellant/insurance company would submit that the deceased was aged 60 years at the time of accident. According to the learned counsel for the appellant, the deceased attempted to cross the road suddenly and therefore she has contributed for the accident and as the negligence is attributable on her part, the quantum of compensation awarded by the Tribunal, is liable to be reduced towards contributory negligence.

4. Perusal of the award would show that on the side of the owner of the vehicle / on the side of the insurance company, no evidence has been let in with regard to the nature and mode of the accident. When evidence has been let in on the side of the claimant alleging negligence on the part of the owner, it is for the insurance company to adduce liberal evidence with regard to the same. In the absence of any evidence being

adduced with regard to the mode of the accident the contention of the insurance company with respect to negligence on the part of the deceased cannot be accepted and there are no materials placed before the Tribunal.

5. So far as the quantum of compensation is concerned, the claims Tribunal has made the modest award of Rs.2,00,000/- only. The Tribunal has taken the income at Rs.100/- per day on notional basis. Taking the monthly income at Rs.3,000/- and after deducting 1/3rd towards personal expenses the Tribunal assessed the loss of dependency at Rs.2,000/- per month and adopted multiplier of 8 and calculated the loss of dependency at Rs.1,92,000/-. That apart, for cremation expenses, loss of love and affection the Tribunal awarded a sum of Rs.8,000/-. Thus a sum of Rs.2,00,000/- has been awarded as compensation.

6. A mere perusal of the award would go to show that the household services rendered by the deceased had not been quantified in terms of money and loss of love and affection should have been at a higher rate. It has already awarded only Rs.8,000/- which is meagre. The award passed by the Tribunal is not shown to be excessive and there is no grounds made out by the appellant towards reduction of compensation.

7. Accordingly, the appeal stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs. The appellant Insurance Company is directed to deposit the award amount, with interest, @ 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, it is open to the claimant to withdraw the compensation amount with interest.

20.06.2017

Index : Yes / No.
Internet : Yes / No
Speaking/Non speaking
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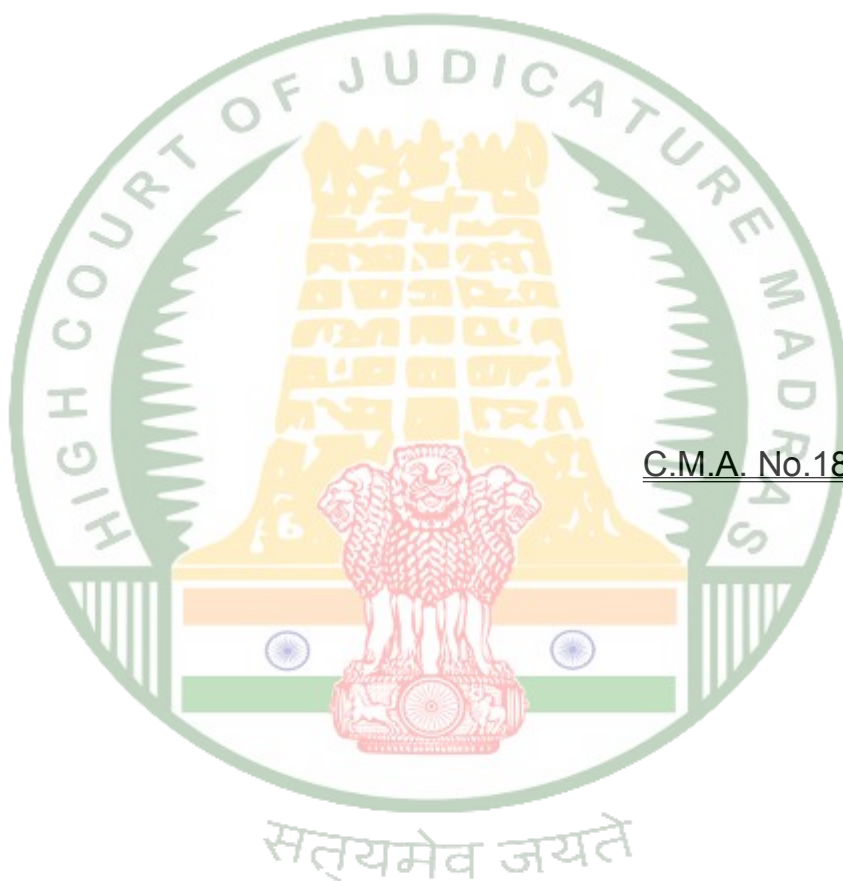
To

1. The Principal District Judge,
Motor Accident Claims Tribunal,
Thiruvallur.
2. The Section Officer,
V.R.Section, High Court, Madras – 104.

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Dr.S.VIMALA, J.

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C.M.A. No.1828 of 2007

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