

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.2154 of 2017
and C.M.P.No.11407 of 2017

The Oriental Insurance Co. Ltd.,
P.B.No.49 Pattamana Buildings,
R.S.Road, Pump Junction, Alwaye,
Kerala State

... Appellant

..VS..

1. Mrs. Kala
2. R.Rajendran
3. Miss.R.Shanthi @ Muthu Shanthi
4. Minor. R.Sangeetha
(Minor Rep. By her father and guardian
R.Rajendran)
5. P.C.Shibu
6. Martin K.Tharayil

... Respondents

Appeal filed under Section 173 of Motor Vehicles Act 1988,
against the decree and Judgment, dated 01.10.2007, made in
M.C.O.P.No.1326 of 2006 on the file of the Motor Accident Claims
Tribunal, Principal Subordinate Judge, Coimbatore.

For Appellant : Mr. S.Arunkumar

J U D G M E N T

The Appeal has been filed by the Insurance Company

challenging the quantum of compensation.

2. Ram Prakash, S/o.Rajendran, aged 19, met with an accident on 01.09.2005, in which he died. The parents and the younger sisters of the deceased have filed a claim petition for compensation claiming a sum of Rs.5,00,000/-. The Tribunal has passed an award for a sum of Rs.4,94,858/-. This award is under challenge by the Insurance Company, as excessive and disproportionate to the income of the deceased.

3. The breakup details of the award passed by the Tribunal would go to show that the Tribunal has relied upon the evidence of the parents. At the time of accident, the deceased had been employed in an Auto Stores and he has been earning a sum of Rs.3,500/- per month. His salary certificate has been filed before the Tribunal. Fixing the monthly income at Rs.3,500/-, deducting 1/3rd towards the personal expenses and adopting the multiplier of '16', the loss of dependency has been awarded at Rs.4,48,000/-. Cremation expenses has been awarded at Rs.2,000/- and loss of articles have been awarded at Rs.2,500/-. The loss of love and affection to each of the claimants has been awarded at Rs.5,000/-.

The medical expenses, while the deceased had been taking treatment, has been awarded at Rs.22,358/- (as per actual bills). Thus, the total amount is quantified at Rs.4,94,858/-.

4. The Tribunal should have adopted the age of the deceased towards choosing the correct multiplier, but, instead, has chosen to adopt '16' as multiplier (perhaps, taking the age of the parents into account) and therefore, the award of compensation cannot be said to be excessive.

5. The Tribunal did not take into account the future prospective increase in income of the deceased. The loss of love and affection awarded is also a meager one. Normally, when a bachelor dies, the practice is to deduct 50% towards the personal expenses. But, in this case, apart from the parents there were two minor sisters in the family and therefore, the deduction of 1/3rd towards the personal expenses is justified.

6. In view of the above, the Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed. The appellant / Insurance company is directed to deposit the

compensation amount, as awarded by the Claims Tribunal, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this judgment. The claimants are entitled to share the award amount as per the ratio of apportionment made by the Claims Tribunal. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Account of the major claimants through RTGS and the share of the minor claimants shall be deposited in a Fixed deposit, in any one of the Nationalized banks, till they attain majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months directly from the Bank. No costs. Consequently, the connected CMP is closed.

10.07.2017

Index : Yes / No

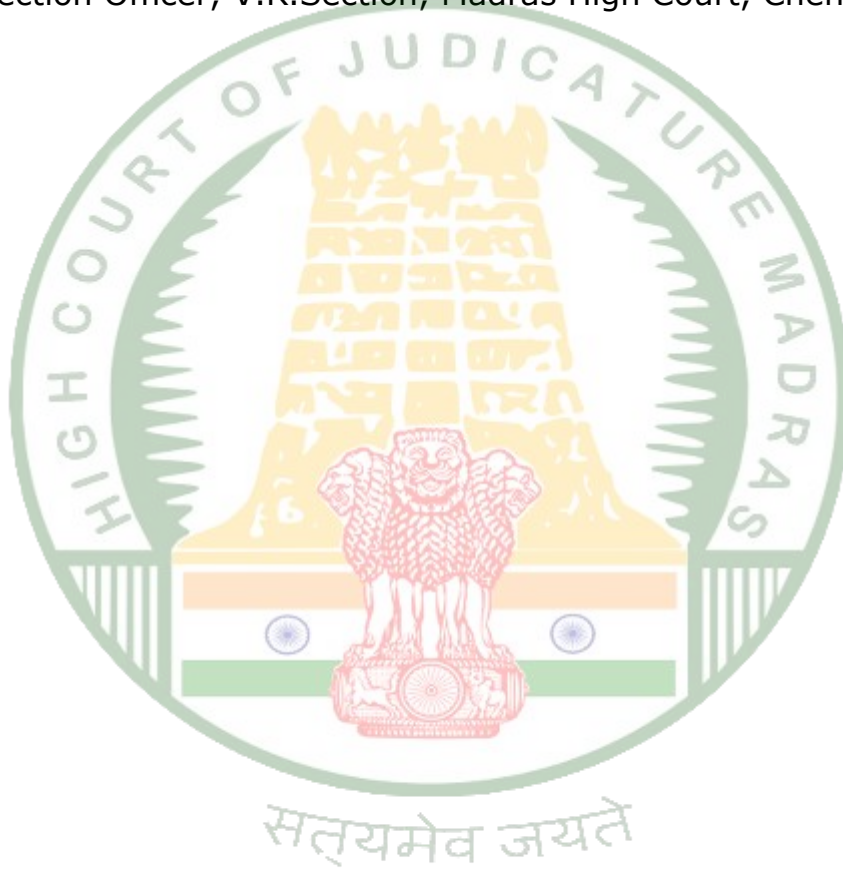
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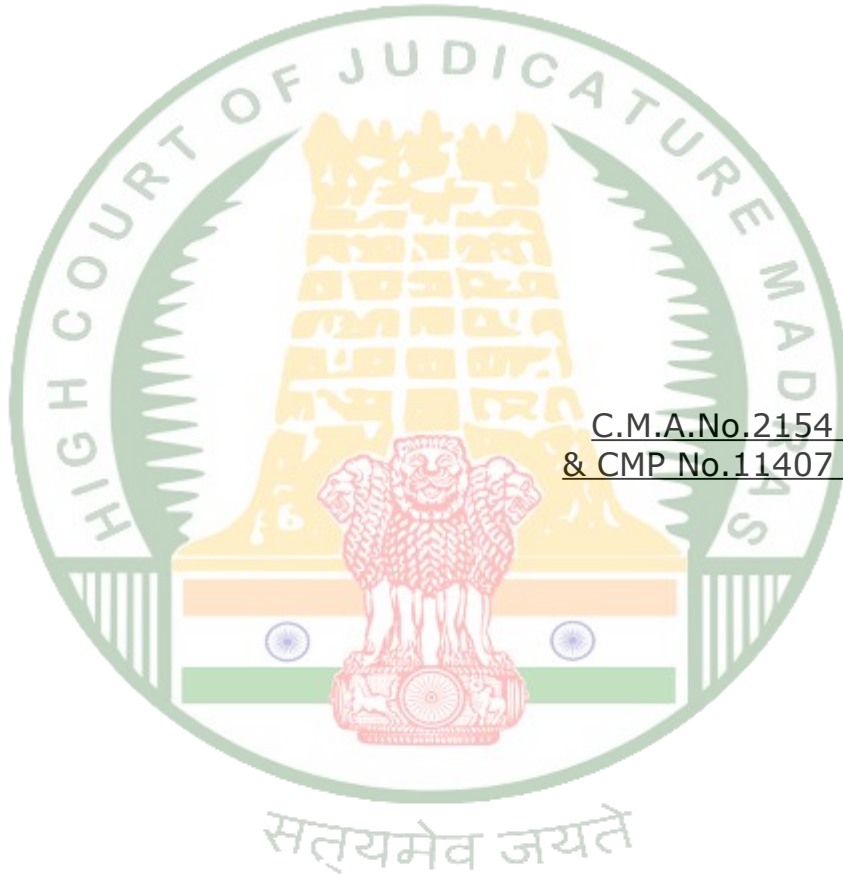
1. Motor Accident Claims Tribunal, Principal Subordinate Judge,
Coimbatore.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104



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Dr. S.VIMALA, J.,

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