

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2293 OF 2017
and
C.M.P.No.12256 of 2017

M/s.The Oriental Insurance Co.Ltd.,
 Pondicherry

..

Appellant

/Vs/

1. Lakshmi
2. Rajapoornam
3. Raja
4. V.Raja
5. New India Assurance Company,
 Pandicherry.
6. T.Rajasekharan

..

Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.03.2004 made in M.C.O.P.No.706 of 2003 on the file of the Additional District Judge, Fast Track Court No.II, Cuddalore.

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For Appellant : Mr.M.Rajasekhar

JUDGMENT

The parents and the brother of the deceased filed a claim petition for compensation in respect of death of the deceased

Muthuraja, claiming a sum of Rs.5,00,000/-.

2. The deceased Muthuraja, aged 20 years, doing rewinding works (Electrical wiring), working in various shops, earning Rs.100/- per day died in an accident on 11.07.1999. This accident had taken place while the deceased had been travelling as a passenger in a van bearing registration No.TN 20 Y 4593 from Madurai to Madras.

3. The claims tribunal, on consideration of materials placed before it, has awarded a sum of Rs.2,81,000/- to the parents and the claim, as against the brother of the deceased, has been dismissed.

4. Challenging the award as excessive and disproportionate, the Insurance Company has preferred this appeal.

5. The learned counsel appearing for the appellant submitted that the Tribunal had fixed the income at Rs.24,000/- per annum, when there was no document to show the income and the notional income alone should have been fixed towards loss of income. It is also contended that multiplier 16 has been adopted, taking into account the age of the deceased and not the age of the parents.

6. In order to appreciate the contention raised by the learned counsel appearing for the appellant, it is necessary to look into the details of the award and the parameters, which were taken into account by the tribunal in fixing the quantum of compensation.

6.1. According to the documents filed before the Court, the deceased Muthuraja had been issued with a training certificate in electrical wiring by the Principal of Sivakangai Seethaiammal Polytechnic filed as Ex.P6. When he had qualified himself in electrical wiring, the contention that the deceased had been doing work in electrical wiring is, logical and reasonable and acceptable. When the evidence show that the deceased had the qualification for doing the wiring work, it is not permissible to fix the notional income. Therefore, the contention that the monthly income is on the higher side cannot be accepted.

7. It is only the age of the deceased, which is relevant to fix the quantum of compensation and not the age of the parents. Therefore, the ground taken does not merit acceptance and therefore, the appeal is dismissed confirming the award of the tribunal. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant/Insurance company is directed to deposit their share award amount along with 9% interest from the date of petition till the date of deposit and costs, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the 1 & 2nd respondents/ 1 & 2 claimants equally, through RTGS within a period of two weeks thereafter.

Index : Yes/No
Internet : Yes/No
kv/sms

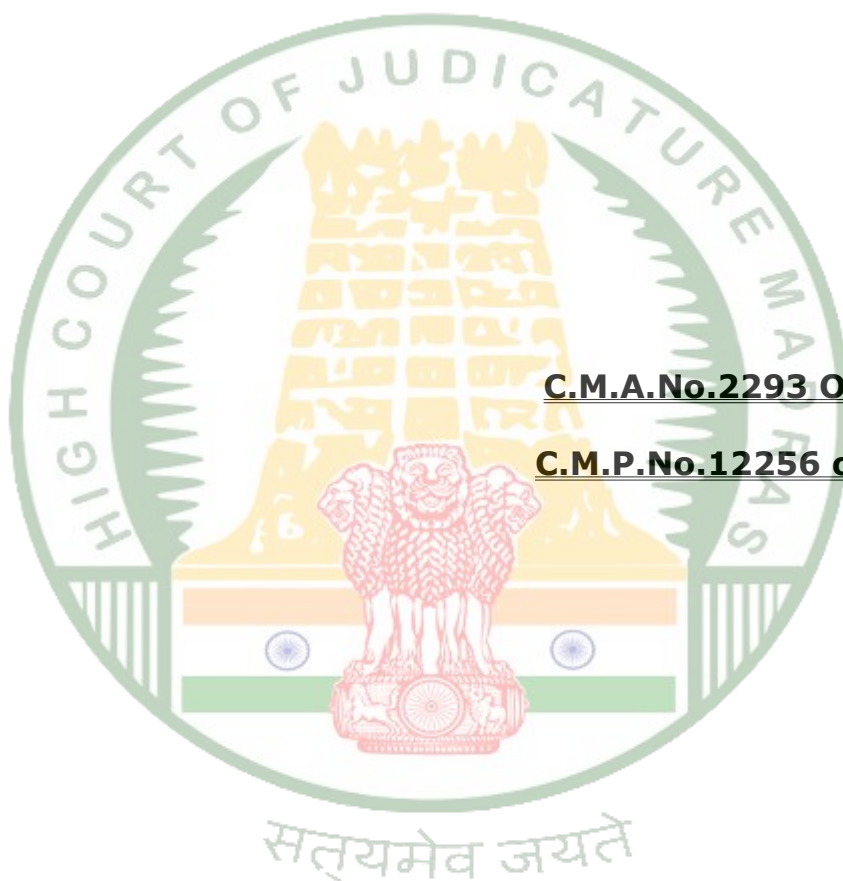
14.07.2017

To

1. The Additional District Judge,
Fast Track Court No.II, Cuddalore.
2. The Section Officer, VR Section,
High Court, Madras.

S.VIMALA,J.

sms/kv



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