

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2389 of 2017

1. Tmt. Samporanam
2. Kumar
3. Gopi
4. Murugan

..Appellants

..VS..

1. Sundar
2. National Insurance Co. Ltd.,
Divisional Office No.3,
Having its Office at:
No.751 Anna Salai, 2nd Floor,
Chennai - 600 002

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 08.07.2014 made in M.C.O.P.No.323 of 2010 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.

For Appellants : Ms. M.Malar
For Respondents : Mr. D.Baskaran, for R-2

J U D G M E N T

As against the claim made for a sum of Rs.4,00,000/-, award has been passed by the Tribunal for a sum of Rs.3,55,000/- in

favour of appellants herein, awarding Rs.1,30,000/- to the first appellants and a sum of Rs.75,000/- to appellants 2 to 4 (each).

2. The deceased, Velayudam, aged 55, employed as Security in South India Glass Company, Sholavaram, Chennai, earning a sum of Rs.3,500/- per month, died in an accident that took place on 03.05.2010.

3. The Tribunal, by the award, dated 08.07.2014, has passed the award under the following breakup details:-

Loss of estate, earning and dependency	-	Rs.2,64,000/-
Loss of consortium to wife	-	Rs. 25,000/-
Loss of love and affection	-	Rs. 50,000/-
Funeral expenses	-	Rs. 16,000/-

		Rs.3,55,000/-

4. While fixing the loss of income, the Tribunal has taken the monthly income at Rs.3,000/- and deducting 1/3rd towards the personal expenses, the monthly contribution has been fixed at Rs.2,000/- and adopting the multiplier of 11, loss of dependency has been calculated at Rs.2,64,000/-. Awarding a sum of Rs.25,000/- to the wife towards loss of consortium and loss of love

and affection to the remaining dependents at Rs.50,000/-, awarding funeral expenses at Rs.16,000/-, the total has been quantified at Rs.3,55,000/-. Challenging the award as inadequate, the claimants have filed this Appeal.

5. The learned counsel for the appellants / claimants would submit that, fixing of the monthly income at Rs.3,000/- is far below and it should have been fixed atleast at Rs.3,500/- per month, as the claimed by the claimants. It is also contended that the award passed under the heads of loss of love and affection and loss of consortium are too low and they have to be enhanced.

6. The learned counsel appearing for the second respondent / Insurance Company would submit that the monthly income fixed is reasonable, considering the age of the deceased and it does not require any interference.

7. The contention of the learned counsel appearing for the second respondent is correct and as the deceased was aged 55 and the accident had happened in the year 2010, the monthly income fixed is reasonable and hence, the amount of compensation awarded

towards loss of dependency does not require any interference.

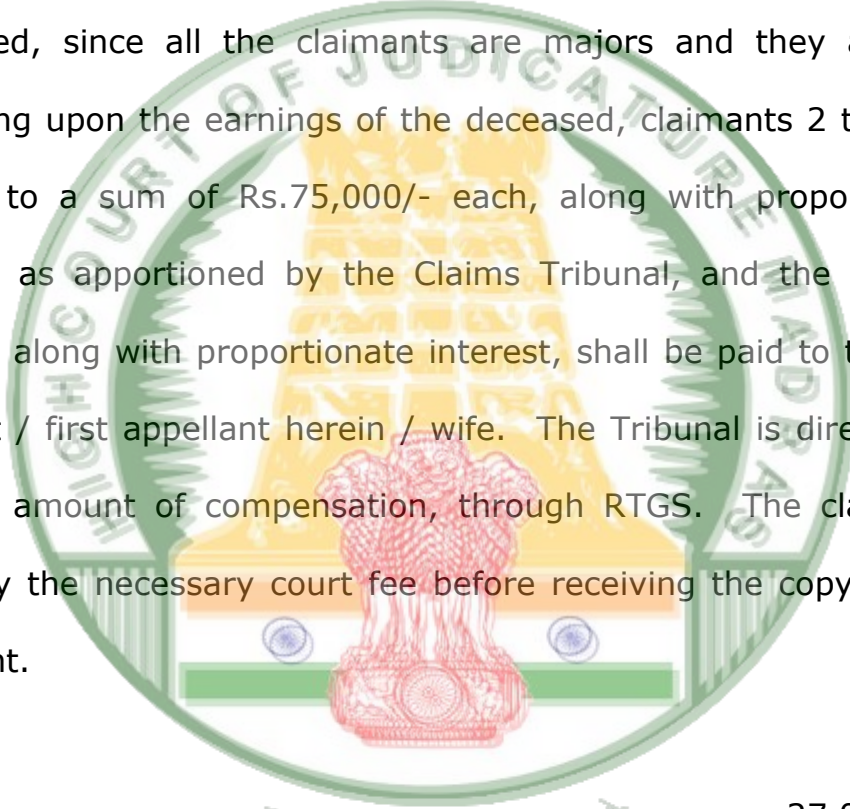
8. So far as the award under the heads of loss of love and affection and consortium are concerned, they require some nominal increase and thus, the loss of consortium is enhanced from Rs.25,000/- to Rs.75,000/- and loss of love and affection is enhanced from Rs.50,000/- to Rs.1,00,000/-, considering the number of claimants. Therefore, there will be an overall increase in the amount of compensation by Rs.1,00,000/-.

9. In fine, the total amount of compensation is fixed at Rs.4,55,000/-, which is payable with interest at 7.5% per annum from the date of petition till the date of deposit.

10. In the result, this Civil Miscellaneous Appeal is partly-allowed, enhancing the total amount of compensation by Rs.1,00,000/-. No costs.

11. The second respondent / Insurance Company is directed to deposit the entire amount of compensation, as awarded by this Court, along with interest at 7.5% per annum, from the date of

petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The second respondent is not liable to pay interest for the default period. So far as apportionment is concerned, since all the claimants are majors and they are not depending upon the earnings of the deceased, claimants 2 to 4 are entitled to a sum of Rs.75,000/- each, along with proportionate interest, as apportioned by the Claims Tribunal, and the balance amount, along with proportionate interest, shall be paid to the first claimant / first appellant herein / wife. The Tribunal is directed to pay the amount of compensation, through RTGS. The claimants shall pay the necessary court fee before receiving the copy of this judgment.



27.07.2017

Index : Yes / No

Web : Yes / No

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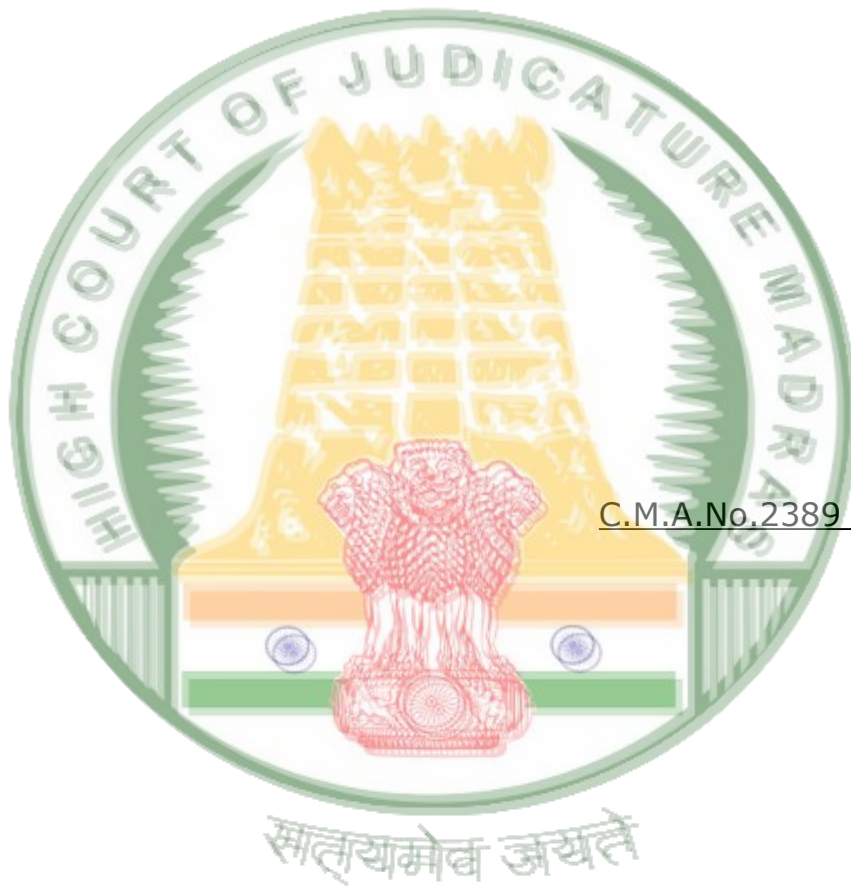
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To

1. Motor Accident Claims Tribunal, IV Additional District Court, Ponneri.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

Dr. S.VIMALA, J.,

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