

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.901 of 2017

Gnanasoundari Appellant/Petitioner

versus

1. Jothimani

2. Thiagarajan

3. The Oriental Insurance Co. Ltd.
Tiruppur.

4. Pappathi

5. Mallika Respondents/Respondents

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.03.1994, made in M.C.O.P.No.406 of 1991, on the file of the Motor Accident Claims Tribunal (Second Additional Subordinate Judge), Erode.

For Appellant : M/s.A.K.Kumarasamy

For Respondent No.3 : Mr.J.Chandran

JUDGMENT

Though a common common award has been passed by the Motor Accident Claims Tribunal (Second Additional Subordinate Judge), Erode, in respect of M.C.O.P.Nos.608 of and 406 of 1991, however, the present appeal

has been filed by the claimant in MCOP No.406/1991, who is the daughter of the deceased.

2. While the claimant in M.C.O.P.No.406 of 1991 is daughter of the deceased Subbaraya Gounder, the claimant in M.C.O.P.No.608 of 1991 is also the daughter of the deceased Subbaraya Gounder, however, through his second wife.

3. The deceased Subbaraya Gounder, aged 55 years, an agriculturist and a money lender, earning a sum of Rs.5,000/- p.m., died in an accident that took place on 17.04.1991. The claimants, as noticed above, filed the respective claim petitions claiming compensation.

4. The Tribunal, after a common inquiry in respect of M.C.O.P.Nos.608 and 406 of 1991, considering the materials, both oral and documentary, available on record, awarded a sum of Rs.60,000/- as compensation in respect of the claimants in M.C.O.P.No.608/1991 and a sum of Rs.10,000/- in respect of the claimant in M.C.O.P.No.406 of 1991.

5. It was the contention of the claimant in M.C.O.P.No.608 of 1991 that the fourth respondent therein was married about eight years back and she was living with her husband and, therefore, she was not dependent upon the

earnings of Subbaraya Gounder and therefore, she cannot be awarded any compensation.

6. The first claimant in M.C.O.P.No.608 of 1991 and claimant in M.C.O.P.No.406 of 2009 were examined. On the basis of the evidence, the Tribunal rendered a finding that the dependency of the claimant in MCOP No.406 of 2009 was limited whereas the dependency in respect of the claimants in MCOP No.608 of 1991 was higher. Compensation was quantified on the basis of the above findings. The Tribunal, on the evidence available on record, fixed the monthly income of the deceased at Rs.1,000/- and deducting Rs.500/- towards personal expenses, the monthly dependency has been taken at Rs.500/- and adopting multiplier of '10', the loss of dependency has been assessed at Rs.60,000/-. Giving a finding that life is not permanent, 10% has been deducted and Rs.54,000/- has been taken as loss of dependency; a sum of Rs.3,000/- has been awarded to each claimant in M.C.O.P.No.608 of 1991 under the head loss of love and affection. In all, the total compensation was quantified at Rs.60,000/-.

7. Insofar as the claimant in M.C.O.P.No.406 of 1991 is concerned, there is a finding given by the Tribunal that she was not dependent upon the earnings of the deceased and a sum of Rs.10,000/- has been awarded under the head loss of love and affection.

8. A perusal of the award passed by the Tribunal clearly reveals that the Tribunal has given a well considered finding for quantifying compensation in both the claim petitions. The Tribunal has considered the entire materials that was available before it to award the compensation. Though the appellant herein has filed the appeal seeking enhancement of compensation, however, the appellant is not able to point out any discrepancy in the order passed by the Tribunal for this Court to interfere with the said award. No evidence worth mentioning has been placed before this Court to come to a different one than the one arrived at by the Tribunal. In fact, it is to be pointed out that while the compensation towards love and affection has been awarded at Rs.3,000/- in the case of claimants in MCOP No.608 of 1991, however, insofar as the appellant is concerned, the Tribunal has awarded a sum of Rs.10,000/- under the head love and affection. Though the status of the parties in both the claim petitions are one and the same, however, the Tribunal has quantified the compensation adopting reasonable differentiation. The compensation given to the appellant herein under the head love and affection is almost three times than the amount awarded to the claimants in MCOP No.608 of 1991.

9. This Court, on a careful analysis of the evidence available on record as also the findings rendered by the Tribunal and the compensation awarded on the basis of the said findings, is of the considered view that no interference is called

for with the order passed by the Tribunal.

10. For the reasons aforesaid, this appeal is liable to be dismissed and, accordingly the same is dismissed, confirming the award dated 01.03.1994 passed in M.C.O.P.No.406 of 1991, by the Motor Accident Claims Tribunal (Second Additional Subordinate Judge), Erode.

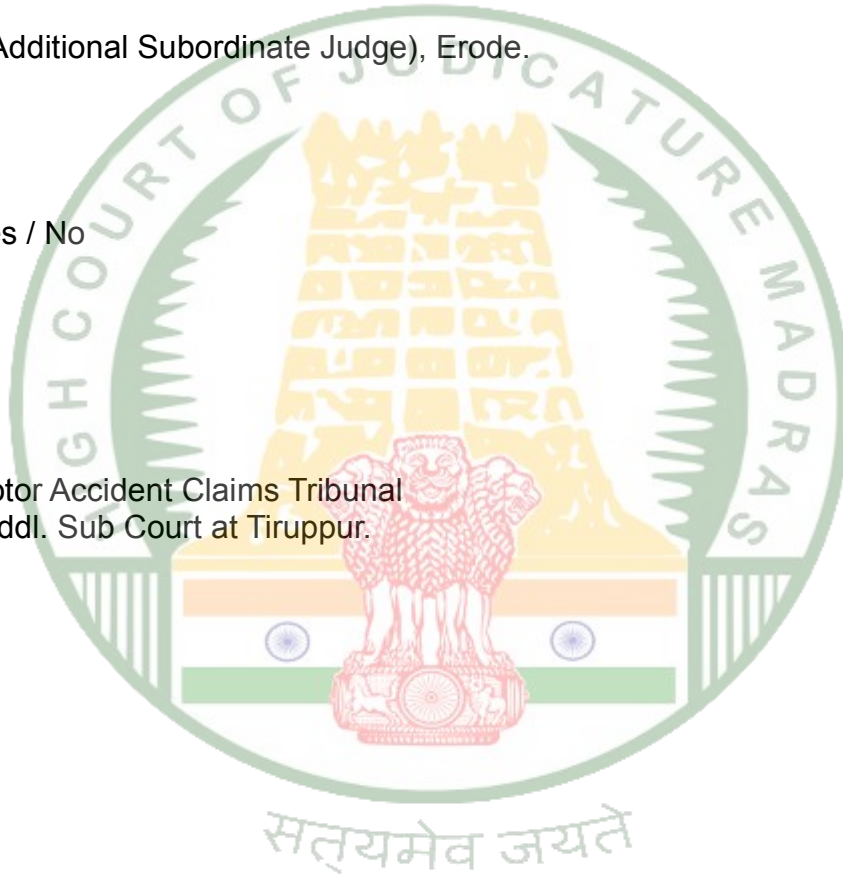
22.02.2017

Index : Yes / No

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To

1. The Motor Accident Claims Tribunal and Addl. Sub Court at Tiruppur.



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Dr.S.VIMALA, J.

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