



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLC.(MD)No.244 of 2017

in

CMA(MD)No. 277 of 2015

1.K.Mani

2.P.Anitha

3.P.Palanisamy (died)

... Petitioners/Appellants

Vs.

1.V.Sethuraman

2.The Branch Manager,

United India Insurance Company Limited,

Seethalakshmi Complex,

Tirunagar, Madurai-6

... Respondents/ Respondents

Prayer: Appeal filed under Order 47 Rule 1 C.P.C. R/W. U/S.114 of Civil Procedure Code to review the judgment and decree dated 11.10.2017 made in C.M.A.(MD).No.277 of 2015, on the file of this Court.

Prayer in CMA(MD). 277/ 2015 :

Appeal filed Under Section 173 of M.V.Act 1988, against the award in MCOP NO.477 of 2011 on the file of the MACT, (Principal District Judge), Karur, dated 21.03.2014.

For Appellants

: Mr.T.Selvakumaran

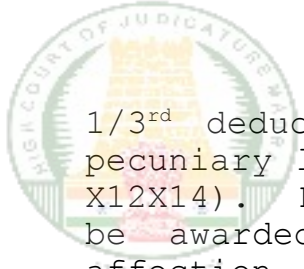
For Respondent No.2

: Mr.A.Shajakhan

JUDGMENT

Heard the learned counsel on either side.

2.I am satisfied that the impugned order suffers from errors on the face of record. I therefore allowed this Review Application (MD).No.244 of 2017. C.M.A.(MD).No.277 of 2015 is taken up afresh for disposal. It is seen that the deceased was working as an agricultural coolie. The accident took place on 04.09.2011. Even though no income proof was filed, this Court normally fixes the monthly income at Rs.6,000/- in respect of the accidents that have taken place during 2011. He was aged 45 years at the time of the accident. Therefore, future prospects at the rate of 25% will have to be added. Considering the number of dependants there has to be



1/3rd deduction. Therefore, applying the statutory formula, the pecuniary loss for the family will be at Rs.8,40,000/- (Rs.5,000/- X12X14). For other conventional heads, a sum of Rs.80,000/- has to be awarded towards loss of consortium and loss of love and affection. A sum of Rs.30,000/- will have to be awarded towards loss of estate and funeral expenses. Therefore, the compensation payable to the claimants is quantified at Rs.9,50,000/-. Therefore the compensation payable to the claimants is enhanced from Rs.7,65,112/- to Rs.9,50,000/-. The wife and daughter of the deceased alone are entitled to the said compensation award amount.

3. Therefore, the order dated 11.10.2017 made in C.M.A.(MD). No.277 of 2015 is set aside.

4. This Civil Miscellaneous Appeal is allowed in the following terms:-

(i). The United India Insurance Company Limited / second respondent is directed to pay the compensation amount as modified by this Court along with proportionate interest and costs from the date of petition till the date of realisation, less the amount already deposited, if any, to the credit of M.C.O.P.No.477 of 2011, dated 21.03.2014, on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur, within a period of twelve weeks from the date of receipt of a copy of this judgment. The appellants are directed to pay the Court fee for the enhanced amount.

(ii). The Tribunal had awarded interest at 7.5% per annum from the date of filing of petition. The same is confirmed. The compensation amount has to be apportioned in the same ratio as directed by the Tribunal.

(iii). The claimants are permitted to withdraw their share amount that would be deposited by the Insurance Company, less the amount already withdrawn, if any, with proportionate interest and costs, through RTGS by filing necessary Application before the Tribunal.

Sd/-

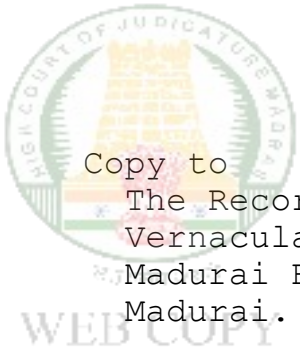
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS)

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Karur.



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The Record Keeper,
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Madurai. 2Copies

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