



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2017

CORAM :

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

C.M.A. (MD) Nos.155 and 156 of 2015  
and  
M.P. (MD) .No.1 of 2015

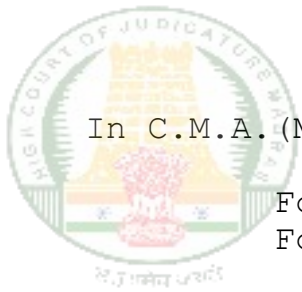
The Branch Manager,  
National Insurance Company Limited,  
T.S.No.4132, East Main Street,  
Pudukottai Town,  
Taluk and District. ... Appellant in C.M.A.155/2015 and  
2<sup>nd</sup> respondent in C.M.A.156/2015/  
2<sup>nd</sup> Respondent

VS

1.Tmt.Gandhiammal  
2.Selvi Suganthi  
3.Selvi Sivaranjani  
(Declared as Major as per order in I.A.No.1063/2011 dated  
17.12.2011)  
4.Minor Boomika  
(Represented by her mother and guardian Tmt.Gandhiammal)  
5.Tmt.Samuthiram ... Respondents 1 to 5  
in C.M.A.155/2015  
and appellants in  
C.M.A.156/2015/Petitioners  
6.Thiru A.K.Krishnan ... 6<sup>th</sup> Respondent in  
C.M.A.No.155/2015/1<sup>st</sup> Respondent  
& 1<sup>st</sup> respondent in  
C.M.A.156/2015 (Given up)/1<sup>st</sup> Respondent

**Common Prayer:** Appeals filed under Section 173 of Motor Vehicles Act to set aside the judgment and decree dated 30.03.2012 and made in M.C.O.P.No.349/2011 on the file of the Motor Accident Claims Tribunal, Pudukottai/Fast Track Court, Pudukottai.  
In C.M.A. (MD) No.155 of 2015

For Appellant : Mr.R.Srinivasan  
For Respondents : Mr.G.Karnan  
For R1 to R5  
No Appearance for R6



In C.M.A. (MD) No.156 of 2015

For Appellants  
For Respondent

: Mr.G.Karnan  
: Mr.R.Srinivasan for R2

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**COMMON JUDGMENT**

Both the claimants as well as the Insurance Company are on appeal challenging the award dated 30.03.2012 made in M.C.O.P.No.349/2011 on the file of the Motor Accident Claims Tribunal, Pudukottai/Fast Track Court, Pudukottai, on the ground of quantum alone.

2.Heard the learned counsel on either side.

3.The deceased Ramachandran, the husband of the first claimant and father of the claimants 2 and 4 and son of the 5<sup>th</sup> claimant died in an accident that took place on 10.08.2009. The bus belonging to one A.K.Krishnan insured with the Insurance company dashed against him when he was riding his bicycle. FIR was registered against the bus driver. The Tribunal rightly fixed the negligence on the bus driver. Therefore, the appellant Insurance Company was made liable. The deceased was said to be an agriculturist. But no income proof was filed. However PW3 Panchayat President deposed that he was working as a motorman and earning a sum of Rs.570/- per month. Ex.P7 Pay Certificate was marked to that effect. The Tribunal had fixed the monthly income at Rs.4,570/-. Future prospects were added. Thus the monthly income was fixed at Rs.6,855/-. Since the deceased had five dependants, 1/4<sup>th</sup> deduction was effected. Thus pecuniary loss was arrived at Rs.9,87,120/-. For loss of Consortium only Rs.10,000/- was awarded. The wife is entitled to a sum of Rs.1,00,000/- towards loss of consortium. Similarly for funeral expenses only Rs.5,000/- was awarded. For Funeral expenses Rs.25,000/- is granted under that head. Therefore, the quantum of compensation awarded by the Tribunal can be enhanced by a further sum of Rs.1,10,000/-. Therefore the compensation payable to the claimants can be reworked as under:-

| Sl.No | Heads                      | Amount in Rupees |
|-------|----------------------------|------------------|
| 1.    | Pecuniary Loss             | Rs. 9,87,120/    |
| 2.    | Loss of consortium         | Rs. 1,00,000/-   |
| 3.    | Funeral Expenses           | Rs. 25,000/-     |
| 4.    | Loss of love and affection | Rs. 50,000/-     |
| 5.    | Loss of estate             | Rs. 10,000/-     |
|       | Total                      | Rs.11,72,120/-   |

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4.The Insurance Company is directed to pay the award amount of

Rs.11,72,120/- with interest at 7.5% per annum and costs from the date of petition till the date of realization, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. The claimants are permitted to withdraw the entire amount as apportioned by the Tribunal, less the amount already withdrawn by them if any. The award dated 30.03.2012 made in M.C.O.P.No.349/2011 on the file of the Motor Accident Claims Tribunal, Pudukottai/Fast Track Court, Pudukottai is modified. C.M.A.(MD).No.155 of 2015 filed by the Insurance Corporation is dismissed. C.M.A.(MD).No.156 of 2015 is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1.The Motor Accident Claims Tribunal,  
Pudukottai/Fast Track Court, Pudukottai.
- 2.The Record Keeper, Vernacular Section,  
Madurai Bench of Madras High Court, Madurai.

**Copy to:**

Thiru A.K.Krishnan,  
S/o.Arumugam, No.63,N.G.O.Colony,  
Pudukottai Town, Taluk and District.

+1cc to Mr.G.KARNAN Advocate in SR. No. 84234

TSG

JS/JC/SAR.1/15.12.2017/3P-5C

JUDGMENT MADE IN  
C.M.A. (MD) Nos.155 & 156 of 2015  
and  
M.P. (MD) .No.1 of 2015  
30.10.2017