



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

WEB COPY

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

C.M.A.(MD)No.721 of 2017

1.Mayalagu  
2.Sivasakthi

... Appellants

Vs.

1. The Principal,  
Sree Rajarajan Engineering College,  
Amaravathi Thiruppathur,  
Karaikudi Taluk, Sivagangai District.

2. The Branch Manager,  
The Oriental Insurance Company Limited,  
Karaikudi, Sivagangai District.

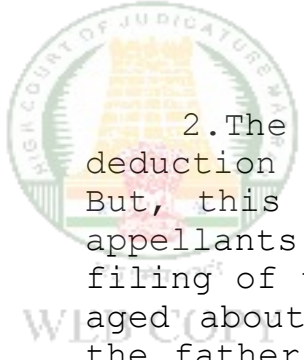
... Respondents

**Prayer:** Appeal filed under Section 173(1) of Motor Vehicles Act, 1988, against the judgment and decree order made in MCOP.No.226 of 2014, dated 29.04.2017 passed by the Motor Accidents Claims Tribunal, (Additional District Judge, Pudukottai).

|                 |                                  |
|-----------------|----------------------------------|
| For Appellants  | : Mr.D.Rameshkumar               |
| For Respondents | : Mr.C.Jawahar Ravindran for R.2 |
|                 | No Appearance for R.1            |

### **JUDGMENT**

Aggrieved by the in adequate compensation award, the claimants have filed this Civil Miscellaneous Appeal against the award dated 29.04.2017 made in M.C.O.P.No.226/2014. The case of the appellants is that their father Vijayan @ Vijayaraman died in an accident that took place on 07.12.2013. The vehicle belonging to the first respondent herein was responsible for causing the said accident. The said vehicle was insured with the second respondent. The appellants claimed a sum of Rs.10,00,000/- as compensation. But, the Tribunal awarded only a sum of Rs.5,85,000/- with interest. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed.



2.The learned counsel for the appellants contended that the deduction of 50% towards personal expenditure was not justified. But, this contention of the appellants cannot be accepted. The appellants were aged about 35 and 33 years even at the time of filing of the MCOP. Both of them were married. The deceased was aged about 55 years. Therefore, the Tribunal rightly held that the father would have spent 50% of his earnings for himself. As regards the income earned by the deceased, Ex.B6 was marked to support the claim that the deceased earned Rs.9,000/- per month. But, the said certificate did not inspire full confidence in the mind of the Tribunal. It is relevant to note that the deceased was aged about 55 years. The employer did not adduce any evidence to show that he was actually paying a sum of Rs.9,000/- per month. Merely on the strength of a stray letter issued vide Ex.B6, the Court below cannot come to a conclusion that the deceased was earning at Rs.9,000/-. However, the Tribunal fixed the monthly income of the deceased at Rs.7,500/-. This cannot be said to an erroneous estimate.

3.The Tribunal has awarded a sum of Rs.50,000/- for loss of love and affection for both the claimants. A sum of Rs.25,000/- awarded towards funeral expenses. A sum of Rs.5,000/- has been awarded for Transportation charges. A further sum of Rs.10,000/- has been awarded towards damage of clothes and articles. Thus, a sum of Rs.5,85,000/- has been awarded.

4. I am of the view that further sum of Rs.50,000/- can be awarded towards loss of love and affection. Therefore, the compensation awarded by the Tribunal is enhanced by a further sum of Rs.50,000/-. The learned counsel appearing for the second respondent submits that the amount awarded by the Tribunal has already been deposited. The second respondent is directed to deposit the enhanced amount of Rs.50,000/- within a period of four weeks from the date of receipt of a copy of this order. This Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-  
Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

1.The Additional District Judge,  
The Motor Accidents Claims Tribunal,



2. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

+ 1 CC TO MR.D.Rameshkumar, ADVOCATE IN SR No.82780

+ 1 CC TO MR.C.Jawahar Ravindran, ADVOCATE IN SR No.82459

skm

MK/KK/SAR-1/03.11.2017/3P/5C

**C.M.A. (MD) No.721 of 2017**  
**11.10.2017**