

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2003 of 2018 and
C.M.P.No.15608 of 2018

M/s.Reliance General Insurance Company Limited,
Motor 3rd Party Claim Office,
No.2054, Rai's Tower,
2nd Floor, Anna Nagar,
Chennai - 600 040. Appellant/2nd respondent

-vs-

1.Tamilarasi
2.Jai Akash (Minor)
3.Nandakumar (Minor)
(Respondents 2 and 3 minors
Rep. by mother and NF 1st respondent)
4.Nagammal
5.Kuppan @ Kuppusamy Naicker ..Respondents 1to5/Petitioners
6.S.Ramesh6th Respondents/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree dated
06.10.2017 made in M.C.O.P.No.126 of 2014 on the file of the
Motor Accidents Claims Tribunal, Principal District Court,
Chengalpattu.

For Appellant : Mr.M.B.Raghavan

J U D G M E N T

[Judgment of the Court was delivered by
R.SUBRAMANIAN,J.]

The Insurance Company challenges the Award granting a sum
of Rs.12,40,000/- for the death of one Kesavan, who died in a
motor accident that occurred on 03.02.2014.

2. According to the claimants, the accident took place
when the deceased Kesavan was riding his two wheeler from
Mettupalayam to Chennai on the left side of the road. While
so, the driver of the tipper lorry bearing Registration No.TN-
22-BZ-2229 which was proceeding towards Chennai ahead of the
two wheeler suddenly turned right and hit against the two

wheeler causing the accident. Due to the sudden impact, the said Kesavan, who was thrown out of the vehicle sustained grievous head injuries and died on the spot.

3. Claiming that the deceased was a mason and agriculturist by profession and was earning a substantial amount through his profession, the claimants sought for a compensation of Rs.15,00,000/-. The Insurance Company resisted the claim by contending that there was no negligence on the part of the lorry driver and it was the deceased, who drove the two wheeler in a rash and negligent manner and dashed against the lorry causing the accident. The claim regarding the income, occupation and age of the deceased were also denied.

4. The Tribunal held that the accident occurred due to the negligence of the driver of the lorry. The Tribunal relied upon Ex.P1 -FIR and Ex.P4 - Charge sheet. The Tribunal also faulted at the Insurance Company for not letting in any evidence on the question of negligence. On the quantum, the Tribunal took the monthly income of the deceased at Rs.6,500/- and after deducting 1/3 towards his personal expenses and applying the multiplier of "15", arrived at Rs.7,80,000/- towards loss of dependency and added a sum of Rs.2,34,000/- being 30% of the amount towards future prospects. The Tribunal also awarded a sum of Rs.1 lakh towards Loss of love and affection, Rs.1 lakh towards Loss of Consortium and Rs.26,000/- towards Funeral Expenses and thus awarded a total compensation of Rs.12,40,000/-.

5. We have heard Mr.M.B.Raghavan, learned counsel for the Insurance Company.

6. Though Mr.M.B.Raghavan, learned counsel for the Insurance Company would contend that the conclusion of the Tribunal on the question of negligence is not correct, we are unable to countenance his arguments in the absence of any evidence on the part of the Insurance Company regarding negligence. Therefore, the finding of the Tribunal on the question of negligence is confirmed. On the quantum also, we do not find any reason to interfere with the compensation inasmuch as the overall compensation awarded is just and proper. The Tribunal has awarded Rs.1,00,000/- towards Loss of Consortium and Rs.1,00,000/- towards loss of Love and Affection, which can be said to be slightly on the higher side, but, in view of the fact that the Tribunal has taken monthly income at Rs.6,500/- only, we do not think that the total award requires interference at our hands.

7. In fine, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

To

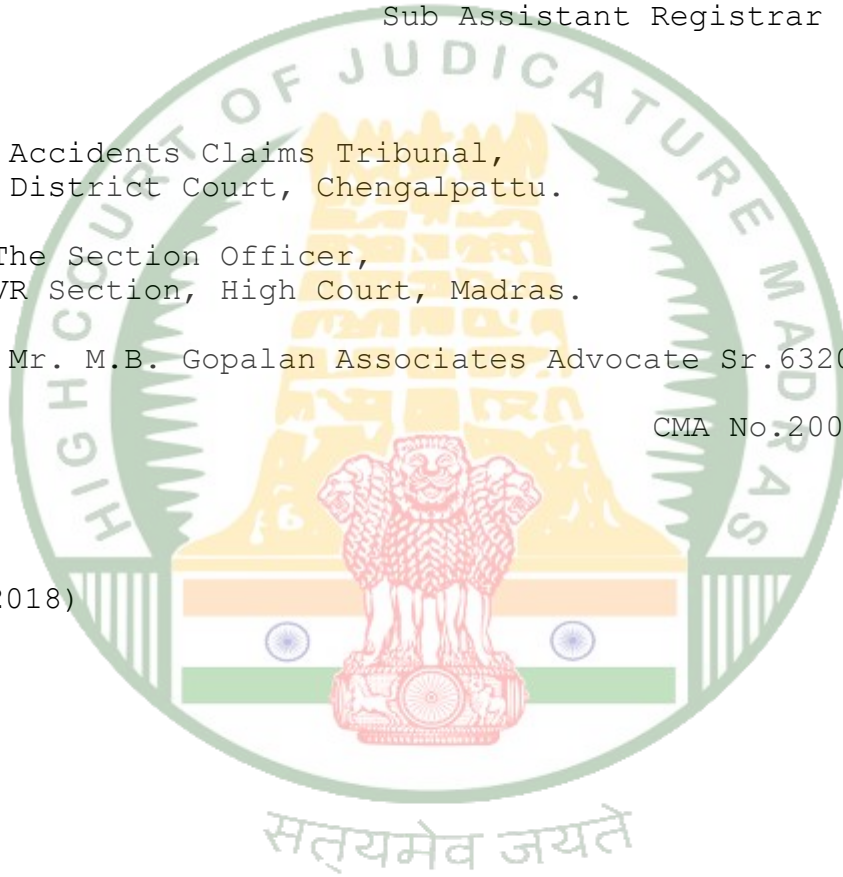
The Motor Accidents Claims Tribunal,
Principal District Court, Chengalpattu.

Copy to :The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to Mr. M.B. Gopalan Associates Advocate Sr.63206

CMA No.2003 of 2018

RJI (CO)
EU(26/10/2018)



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