

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2018

CORAM

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

C.M.A.No.1863 of 2018

Branch Manager
M/s Reliance General Insurance Company Limited
Sri Lakshmi Complex, First Floor
Bharathi Street, Omalur Main Road
Swarnapuri, Salem District
Tamil Nadu ... Appellant/2nd Respondent

-Vs-

1. Shanthi, W/o Shankar
2. Shankar, S/o Selvaraj
3. Manokaran, S/o Shankar
4. S.R.Sengottuvel ... Respondents/ petitioners
1 to 3 and 1st Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 18.08.2017 made in M.C.O.P.No.198 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Dharmapuri.

For Appellant :: Mr.S.Arun Kumar

For Respondents:: Mr.D.Ramesh Kumar for R1 to R3

JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Insurance Company challenges the award of a sum of Rs.13,64,000/- granted to the parents of the deceased-Suresh, who died in a motor accident that occurred on 25.2.2015.

2. Mr.S.Arun Kumar, learned counsel for the appellant-Insurance Company does not challenge the findings of the Tribunal on the question of negligence. On the quantum, the Tribunal took the notional income at Rs.4,500/-, deducted half of it towards personal expenses, added 50% towards future prospects and awarded a sum of Rs.7,29,000/- as loss of dependancy. The Tribunal awarded Rs.3,00,000/- each towards loss of love and affection and loss of estate, apart from Rs.10,000/- for transportation and Rs.25,000/- for funeral expenses. Mr.S.Arun Kumar, learned counsel for

the Insurance Company would only canvass the quantum under the conventional heads.

3. Considering the fact that the accident had occurred in 2015, we are of the view that the Tribunal was not justified in taking Rs.4,500/- as notional income. We are of the considered opinion that adoption of Rs.8,000/- as the notional income would be just and proper. We, therefore, take Rs.8,000/- as the notional income. Adding 40% towards future prospects, the same works out to Rs.11,200/- per month. After deducting 50% towards personal expenses, the monthly loss of dependancy would be Rs.5,600/-. Thus calculated, the total loss of dependancy works out to Rs.12,09,600/-. As rightly contended by Mr.S.Arun Kumar, the compensation awarded under the conventional heads is on the higher side and it requires reduction. The award for loss of love and affection is reduced to Rs.50,000/- to the parents of the deceased only at Rs.25,000/- each. The third claimant, being a major brother, is not entitled to any compensation, since he is not a dependent. A sum of Rs.15,000/- is awarded for loss of estate, instead of Rs.3,00,000/- awarded by the Tribunal. The award of Rs.25,000/- for funeral expenses is reduced to Rs.15,000/-. The award of Rs.10,000/- for transportation is confirmed. The Tribunal has not awarded any amount for loss of dress and other articles. We award Rs.2,000/- towards the same. Thus, the total compensation works out to Rs.13,01,600/- and the same is rounded off to Rs.13,00,000/-. The modified award will carry interest at 7.5% per annum from the date of petition till the date of payment.

4. The appellant-Insurance Company is directed to deposit the entire compensation amount as per the modified award along with accrued interest and costs, less the amount, if any, already deposited, to the credit of the M.C.O.P.No.198 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Dharmapuri within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent-Mother of the deceased is permitted to withdraw Rs.8,00,000/- with proportionate interest and entire costs and the second respondent-Father is permitted to withdraw the balance amount with proportionate interest.

5. With this modification in the award, the civil miscellaneous appeal is allowed in part. Consequently, C.M.P.No.14393 of 2018 is closed. There is no order as to costs in this appeal.

Sd/-

Assistant Registrar(CS viii)

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Sub Assistant Registrar

To

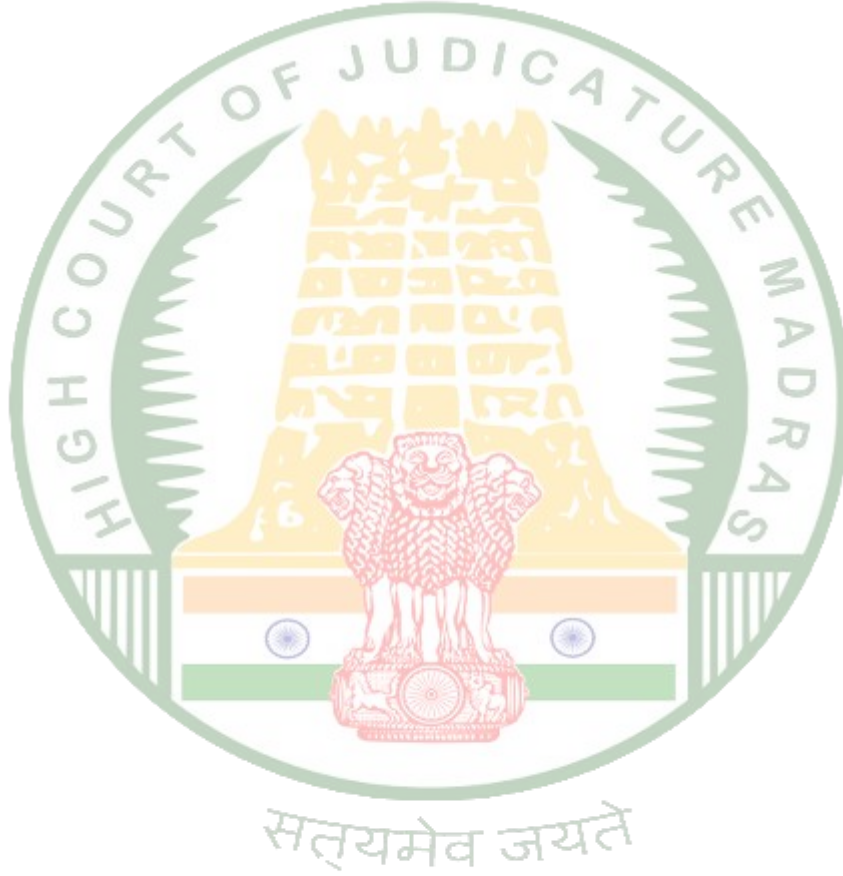
The Motor Accident Claims Tribunal
Principal District Judge
Dharmapuri

+1cc to Mr.D.Ramesh Kumar , Advocate SR.No. 67555

+1cc to Mr.S.Arun Kumar , Advocate SR.No. 61573

C.M.A.No.1863 of 2018

ASK(20/11/2018)



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