

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.No.2510 of 2018

1.M.Gurulakshmi
2.M.Ramachandra Boopathi
3.M.Muthulakshmi

.. Appellants

Vs.

1.R.Velraj

2.The Oriental Insurance Co. Ltd.,
"Oriental House", 2nd Floor,
No.115, Broadway Road,
Chennai 600 108.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 28.03.2018, made in MCOP.No.6670 of 2016, on the file of the IV Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

For Appellants : Ms.S.Agalya

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Award and Decree dated 28.03.2018, made in MCOP.No.6670 of 2016, on the file of the IV Judge, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

2.The appellants are the claimants who filed claim petition in M.C.O.P.No.6670 of 2016, on the file of the Motor Accidents Claims Tribunal/IV Judge, Small Causes Court, Chennai, claiming a sum of Rs.20,00,000/- as compensation for the death of one Madasamy in an accident that took place on 25.04.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the two wheeler bearing Registration No.TN-60-P-8317 and awarded a sum of Rs.11,38,100/- as compensation under different heads, directing the 2nd respondent-Insurance Company to pay the same.

4. Not being satisfied with the compensation awarded by the Tribunal, the appellants have come out with this appeal seeking enhancement.

5. The learned counsel for the appellants contended that the claimants have pleaded that the deceased was an agriculturist and doing sheep rearing business and was earning a sum of Rs.20,000/- per month. P.W.2 also deposed to that effect. The learned counsel for the appellants referred to the evidence of P.W.2 to substantiate her contention. She also contended that the respondents have not let in any contra evidence and the Tribunal ought to have accepted the evidence let in by the appellants and erred in fixing the monthly income of the deceased at Rs.10,000/- per month and awarded compensation. Hence, she prayed for enhancement of the same.

7. Heard the learned counsel for the appellants and perused the materials available on record.

8. From the materials available on record, it is seen that the appellants have not produced any evidence with regard to the income of the deceased that he was earning income as agricultural coolie and also as a owner of sheeps. The only evidence let in by the appellants is by examining P.W.2, who is working as an assistant of Ex-President of Panchayat. He has produced the certificate issued by Ex-President with regard to avocation and income of the deceased. P.W.2 in his cross-examination has admitted that Ex-President is not a competent person to issue certificate with regard to income of the deceased and only Tahsildar is the competent person. In view of the above evidence, the Tribunal considering the materials on record and in the absence of any documents with regard to income of the deceased, fixed the notional income of the deceased at Rs.10,000/- per month and awarded compensation, by giving cogent and valid reason and by following the judgment of the Hon'ble Apex Court in Syed Sadiq and others Vs. Divisional Manager, United India Insurance Company Ltd., reported in 2014 ACJ 627. The total compensation awarded by the Tribunal is not meager and this Court is of the considered view that there is no perversity in the said order, warranting interference.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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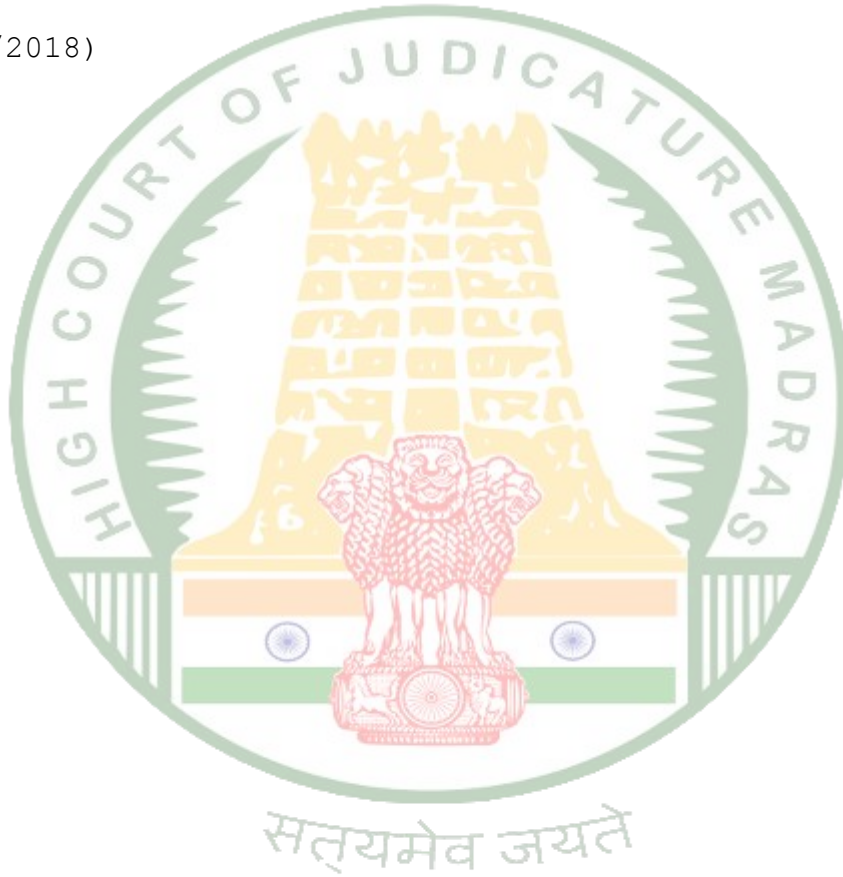
1.The IV Judge,
Small Causes Court,
Motor Accidents Claims Tribunal, Chennai.

2. The Section Officer / Record keeper,
VR Section, Madras High Court, Madras.

+ 1 cc to Mr.A.Shanmugaraj, Advocate, S.R.No.77733

CMA.No.2510 of 2018

RSV(CO)
ssm(06/12/2018)



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