

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.M.A.No.145 of 2015

and

M.P.No.1 of 2015

M/s.Royal Sundaram Alliance Insurance Co.Ltd.,
Sundaram Towers,
No.45 & 46, Whites Road,
Chennai - 600 014. ... Appellant/2nd respondent

Vs.

1. Saraswathi
2. Devadharsini (Minor)
3. Selvarani
4. Rajendiran
5.Sampath
(2nd respondent minor respondent by Mother
and NF 1st respondent)
.. Respondents/ Petitioners1 to 4,1st respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 02.04.2014 made in M.C.O.P.No.215 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Rasipuram.

सत्यमेव जयते

For Appellant : Mr.M.B.Raghavan

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J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 02.04.2014 made in M.C.O.P.No.215 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Rasipuram.

2. Heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant is the second respondent in M.C.O.P.No. 215 of 2012 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Rasipuram. The claimants filed

the said claim petition, claiming a sum of Rs.40,00,000/- as compensation for the death of one Ramesh in the accident that took place on 25.01.2012.

4. The learned Tribunal after considering the pleadings, oral and documentary evidences, held that the accident occurred due to the rash and negligent driving of the driver of the lorry bearing Registration No. TN 28 Y 1150 which was insured with the appellant-Insurance Company and directed the appellant-Insurance company to pay a sum of Rs.16,95,000/- as compensation to the respondents/claimants. Challenging the said award dated 02.04.2014 made in M.C.O.P.No.215 of 2012, the appellant-Insurance Company has come out with the present appeal.

5. The contention of the learned counsel appearing for the appellant-Insurance Company is that the Tribunal has grossly erred in fixing the income of the deceased at the time of the accident as Rs.1,00,000/- per annum without any evidence to substantiate the same. The learned Tribunal has also accepted that the deceased had not filed Income Tax Returns for two years prior to the accident. In such circumstances, the Tribunal ought not to have presumed that the income of the deceased would have been Rs.1,00,000/- per annum and instead only notional income in the range of Rs.4,000/- to Rs.5,000/- should have been considered. The Tribunal has further erred in adding a sum of Rs.50,000/- towards future prospects when the income itself was not clearly known. The various heads awarded by the Tribunal namely loss of income, loss of dependency etc. are all excessive and not in consonance with the facts and circumstances of the case. The appellant-Insurance Company contended that the overall quantum awarded by the Tribunal is on the higher side.

6. A perusal of the records shows that the sum awarded by the Tribunal under various heads are very much reasonable. The Tribunal has analysed all evidences including Ex.X1 (Authorization Letter) and then awarded the compensation under the heads loss of income and future prospects. The other heads awarded by the Tribunal are also just and fair. Hence, the award passed by the Tribunal requires no interference and therefore, the orders passed by the Tribunal are upheld. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Judge, Motor Accidents Claims Tribunal,
Subordinate Court, Rasipuram.

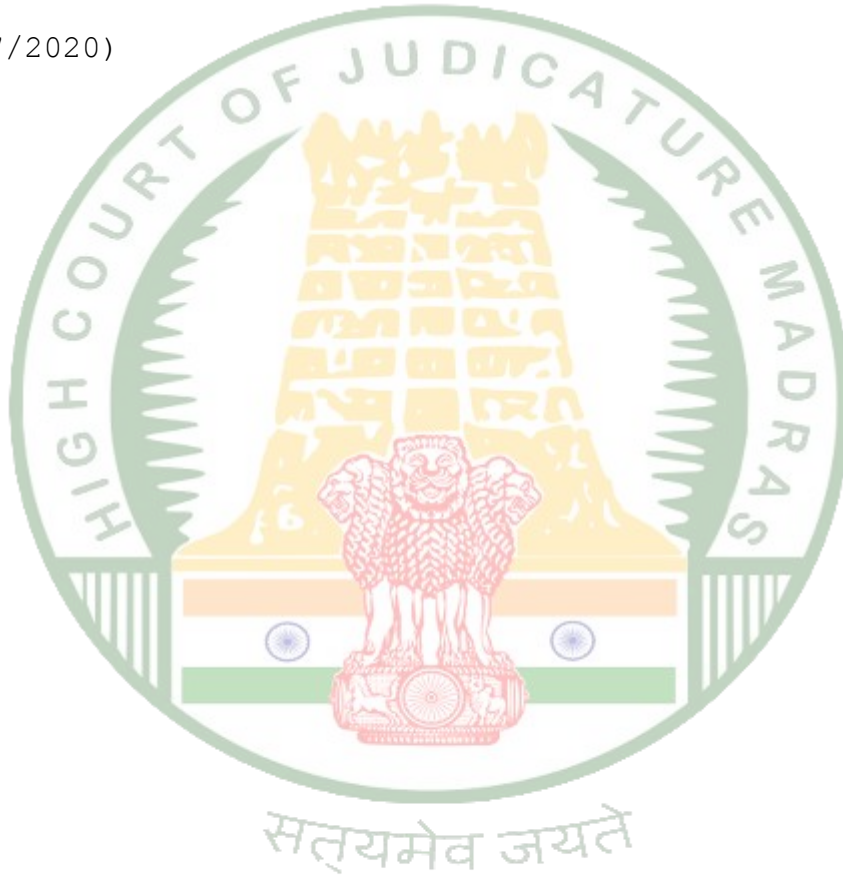
Copy to:

The Section Officer, VR Section, High Court, Madras.

+lcc to Mr.M.B.Gopalan, Advocate SR.No. 56596

C.M.A.No.145 of 2015

A.SK(27/07/2020)



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