

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1491 of 2018
and
C.M.P.No.11824 of 2018

Liberty Videocon General Insurance
Company Limited rep. By its
Branch Manager,
Anmol Palani, No.88, G.N.Chetty Road,
Level 4, Unit No.E5 and F5,
T.Nagar, Chennai - 17. ... Appellant/3rd Respondent

vs.

1.Kalpana
2.Archana
3.Ravi Shankar
4.Aishwarya
5.Dr.M.Chandra
6.G.Ramachandran ... Respondents/Petitioner /
Respondents 1 & 2

Appeal filed under Section 173 of the Motor Vehicles Act,
1988 against the judgment and decree dated 09.06.2017 made in
M.C.O.P.No.1863 of 2014 on the file of the Motor Accidents
Claims Tribunal (II Court of Small Causes), Chennai.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.T.N.Rajagopalan

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant challenging the quantum alone. The claimants made a claim for a sum of Rs.33,92,500/-. The Tribunal, after fixing the liability upon the appellant being the insurer, fixed the compensation payable at Rs.33,07,148/-. The claimants are the wife and children of the deceased.

2.The deceased was aged about 64 years. The date of accident was 05.12.2013. The deceased was doing business i.e. sale of blue metal. The monthly income claimed was Rs.50,000/-, which has been taken as Rs.41,650/- by the Tribunal. The Tribunal has added future prospects at 30% and made deduction of 1/3rd amount towards the personal expenses of the deceased and applying multiplier 7 and adding amounts towards the conventional heads, awarded Rs.33,07,148/-.

3.Learned counsel appearing for the appellant submits that the Tribunal has committed an error in not taking into consideration income tax return for the year 2013-2014 which would indicate the annual income as Rs.4,09,810/-. Further error has been committed in deducting 1/3rd amount instead of 1/4th. The Tribunal has awarded higher amount towards loss of consortium. Thus, it is submitted that the appeal will have to be allowed to the aforesaid extent.

4.Learned counsel appearing for the respondents submitted that the Tribunal has ultimately held that the claimants are entitled for a sum of Rs.33,07,148/-. Inasmuch as liability is not disputed, no interference is required.

5.The Tribunal has committed an error, as rightly submitted by the learned counsel for the appellant by including the rental income and income from the deposits apart from the business income. Therefore, the submission of the learned counsel for the appellant is correct insofar as that the annual income will have to be fixed at Rs.4,09,810/-. However, we are of the view that deduction of 1/3rd amount is not correct as against 1/4th since the claimants are four. The Tribunal ought to have awarded Rs.40,000/- for loss of consortium, Rs.1,20,000/- towards love and affection, Rs.15,000/- for funeral expenses apart from Rs.15,000/- for loss of estate. Accordingly, a total sum of Rs.23,41,506/- has been arrived as compensation and the interest awarded by the Tribunal at 9% per annum is reduced to 7.5% per annum.

6.In view of the above, the compensation awarded by the Tribunal is reduced to Rs.23,41,506/- and the rate of interest is modified to 7.5% per annum. Accordingly, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.It is submitted that the claimants have already withdrawn a sum of Rs.22,55,425/-. Therefore, the appellant insurance company is directed to deposit the balance reduced compensation amount with 7.5% interest to the credit of M.C.O.P.No.1863 of 2014 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, within a period of four weeks

from the date of receipt of a copy of this judgment. We direct the Tribunal to transfer the amount deposited by way of RTGS to the bank accounts of the claimants within a period of three weeks from the date of deposit. On such transfer, the claimants are entitled to withdraw the same.

Sd/-
Assistant Registrar(CS)

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To Sub Assistant Registrar

1.The Motor Accidents Claims Tribunal
II Court of Small Causes, Chennai.

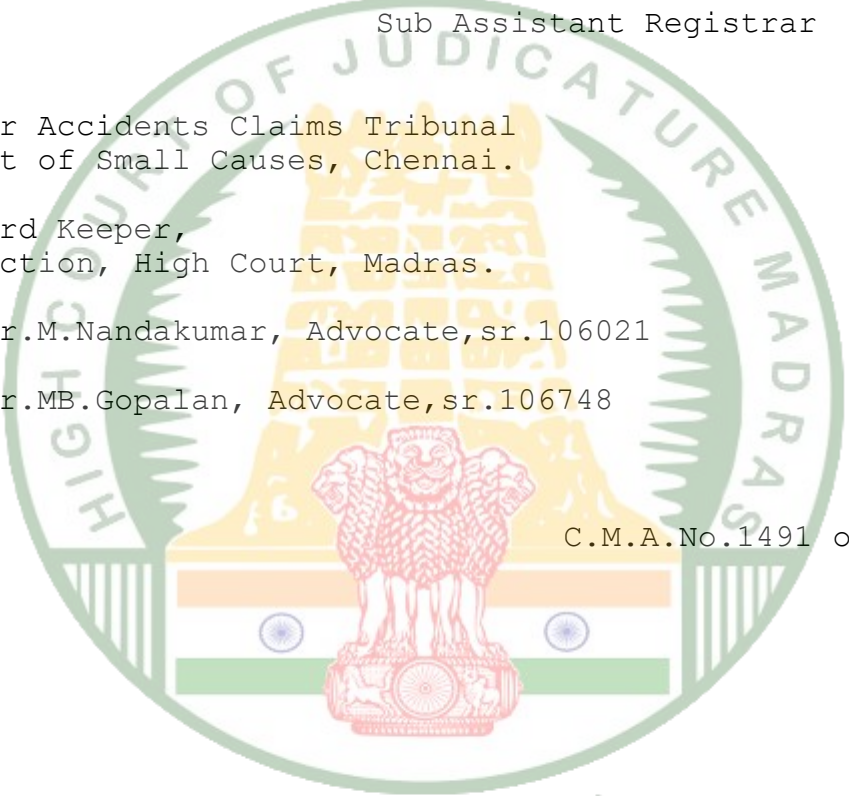
2.The Record Keeper,
V.R. Section, High Court, Madras.

+1 cc to Mr.M.Nandakumar, Advocate,sr.106021

+1 cc to Mr.MB.Gopalan, Advocate,sr.106748

sr(co)
krd 9/10

C.M.A.No.1491 of 2018



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