

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1658 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

The New India Assurance Company Ltd.,
No.482, 483, SNV Chambers,
III Floor, Coimbatore - 600012. Appellant/respondent No.2

Vs.

1.S.MuruganR1 & R2/petitioners 1 & 2

2.M.Lakshmi

3.J.RadhikaR3/Respondent No.1

4.S.SakthiveluR4/Respondent No.3

5.ICICI Lombard General Insurance Co. Ltd.,
Vigneswara Cresta, I Floor, 1095,
Avinasi Road, Pappanaickenplayam,
Coimbatore.Respondent5/Respondent No.4

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 10.12.2009 passed in M.C.O.P.No.265 of 2008, on the file of the Motor Accidents Claims Tribunal (FTC III/Subordinate Judge), Dharapuram.

For Appellant : Mr.G.Udayasankar

For R1, R2 & R4: No appearance

For R3 : Mr.C.Gunasekaran

For R5 : M/s.R.Sreevidhya

J U D G M E N T

Heard the learned counsels for the appellant and the 3rd respondent and the 5th respondent.

2. This Civil Miscellaneous Appeal has been filed against the impugned Judgment and Decree dated 10.12.2009 passed by the Motor Accidents Claims Tribunal (FTC III/Subordinate Judge), Dharapuram in M.C.O.P.No.265 of 2008.

3. By the impugned Judgment, the Tribunal has awarded a sum of Rs.5,04,000/- together with interest at 7.5% per annum from the date of filing of the claim petition to 1st and 2nd respondents / claimants. Aggrieved by the same, the appellant has filed the present Civil Miscellaneous Appeal.

4. The claim was petition filed by the 1st and 2nd respondents, who are the legal heirs and the dependents of the deceased Ganesan. The said deceased Ganesan died in an accident that took place on 01.10.2007 at about 11.45 p.m, while travelling in a pickup van bearing registration number TN-43-Z-4498 from coimbatore to Gudalur.

5. The Tribunal has considered the income of the deceased Ganesan as Rs.4,500/- per month as against the income of Rs.11,000/- per month as per the claim petition. The Tribunal has applied 13 multiplier. This apparently appears to be contrary to the subsequent ratio of the Hon'ble Supreme Court.

6. However, since there is no appeal on behalf of the 1st and 2nd respondents, I am inclined to uphold the impugned award of the Tribunal by dismissing this appeal. The appellant Insurance Company is therefore directed to deposit the balance amount of compensation and cost awarded if any, together with interest at 7.5% per annum from the date of filing of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment.

7. On such deposit being made by the appellant, the 1st and 2nd respondents / claimants are permitted to withdraw the same together with interest by filing suitable application before the Tribunal.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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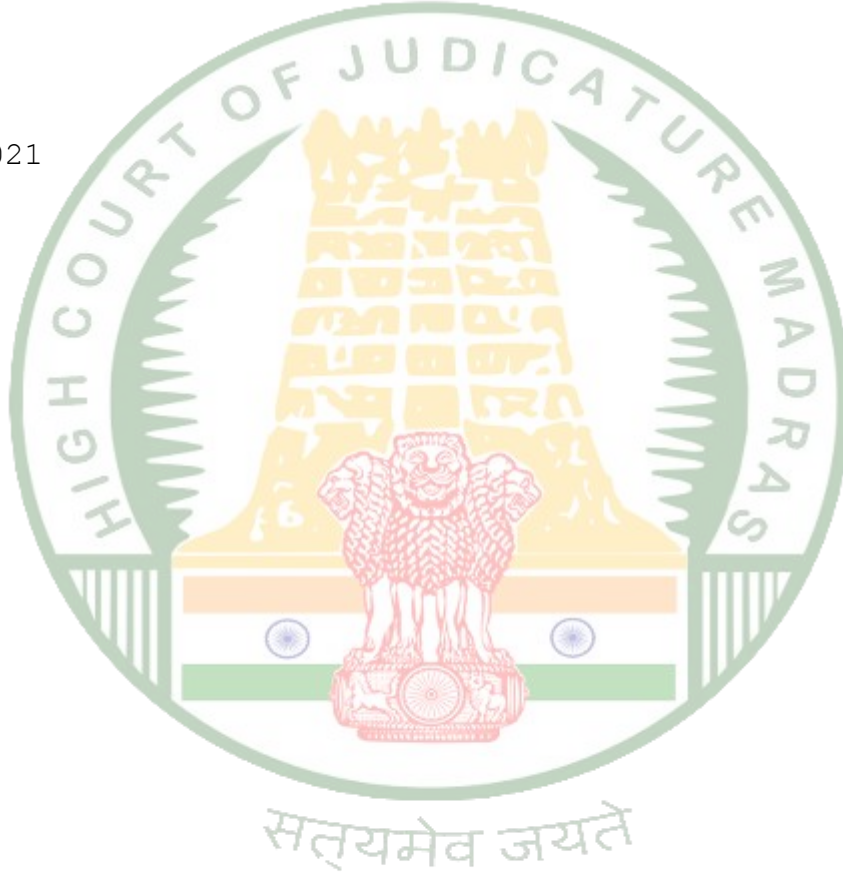
To:

1.Motor Accidents Claims Tribunal
(FTC III/Subordinate Judge),
Dharapuram.

2.The Section Officer
VR Section
High court
Madras

C.M.A.No.1658 of 2010
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