

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1227 of 2015

and

M.P.No.1 of 2015

The Oriental Insurance Co. Ltd.,
Rep. by its Manager,
Divisional Office, Divya Tower,
2nd Floor, Western Part Fort Main Road,
Salem.Appellant/2nd Respondent

Vs

Sombayee (Died)
1.Rathinam
2.Siddhaiyan
3.Kamala ... Respondents/ Petitioners
4.Vellangiri ...4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.04.2014 made in M.C.O.P.No.132 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Harur.

For Appellant	: Mr.S.Arunkumar
For Respondents	: Mr.A.Velmurugan
	Legal Aid Counsel

J U D G M E N T

(This case has been heard through Video Conferencing)

Heard the learned counsel for the appellant.

2. The appeal is filed by the Insurance Company challenging the quantum of compensation awarded to the claimants, who have preferred the claim petition under section 163(A) of Motor Vehicles Act, seeking compensation for the death of Pachiyannan, who died in a road accident.

3. The short point canvassed in this appeal by the learned counsel for the appellant is that in the petition filed under Section 163(A), the Tribunal ought to have adhered to the

formula given under the II Schedule of Motor Vehicles Act. While applying multiplier and fixing the loss of dependency, the Tribunal has gone beyond the prescribed guidelines and has awarded sum of Rs.1,00,000/- for love and affection and Rs.3,000/- for ambulance.

3. Learned counsel for the appellant drew attention of this Court regarding the II Schedule of M.V. Act, where the claim under the provision of Section 163A has to be dealt with as per the compensation fixed under the Schedule II of the Act.

4. While going through the provisions under the General Damages, the claimants are entitled to Rs.2,000/- for funeral expenses, Rs.5,000/- for loss of consortium and Rs.2,500/- for loss of estate.

5. As far as Medical Expenses is concerned, the maximum limit is fixed as Rs.15,000/-. In this case, Medical Bills for Rs.3399/- being produced and the same has been accepted by the Tribunal. When there is no provision to award compensation for Ambulance charges, Rs.3000/- has been awarded and for love and affection, Rs.1,00,000/- is awarded, which is not in consonance with the Schedule. Therefore, the award of the Tribunal is modified to the effect that the award of Rs.1,00,000/- towards love and affection and Rs.3,000/- towards ambulance is scaled down to Rs.5,000/- for loss of consortium to the first claimant. Therefore, the award of the Tribunal is modified as follows:

Compensation under Various Heads	Award passed by this Court
Loss of dependency	Rs.1,32,000/-
Funeral Expenses	Rs. 5,000/-
Loss of Consortium to the first claimant	Rs. 5,000/-
Loss of Estate	Rs. 2,500/-
Medical Expenses	Rs. 3,399/-
Total	Rs.1,47,899/-

5. Accordingly, the award of Rs.2,43,500/- is scaled down to Rs.1,47,899/-. The Insurance Company is directed to deposit the amount along with interest at 7.5% p.a. from the date of petition till the date of realisation within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the claimants shall withdraw the amount on appropriate application.

6. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

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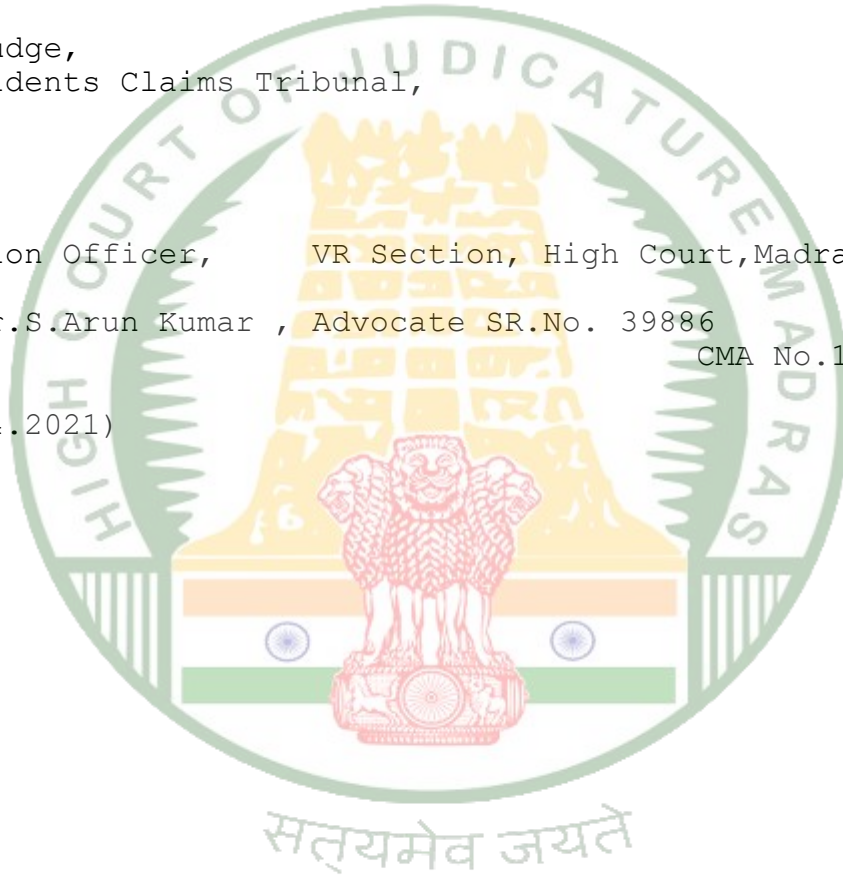
Sub Assistant Registrar

vri
To
The Sub Judge,
Motor Accidents Claims Tribunal,
Harur.

Copy to:
The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.S.Arun Kumar , Advocate SR.No. 39886
CMA No.1227 of 2015

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A.SK(07.04.2021)



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