

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2372 of 2015

M.P.No.1 of 2015

The Branch Manager,
M/s.HDFC-ERGO General Insurance
Company Limited,
I Floor, Rajanarayanan Towers,
70, Race Course Road,
Coimbatore-641 016.

..Appellant

Vs.

1.Vanitha

2.Angeela(Minor)

3.Rajeshwari

4.M/s.Fab Tech International
369/1, Nochipalayam Road,
Veerapandi Post,
Tiruppur.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 23.02.2015 made in M.C.O.P.No.23 of 2012, on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Court), Tiruppur.

For Petitioner : Mr.J.Michael Visuvasam

For Respondents : Mr.Ma.Pa.Thangavel
for RR1 to 3
Non-appearance for R4

J U D G M E N T

The appeal on hand is filed against the Judgment and decree dated 23.02.2015 passed in M.C.O.P.No.23 of 2012 on the file of the Motor Accidents Claims Tribunal (Additional Subordinate Court), Tiruppur.

2. The accident occurred on 11.12.2011 at about 10.00 hours in Tirupur to Palladam road, Thekkalur Privu, Palladam. The case was registered under Sections 279, 337, 304(A) IPC by the Palladam Police Station, Tirupur in Crime No.2330 of 2011. The deceased sustained multiple injuries and died on the spot. The claim petition was filed claiming a total compensation of Rs.23,00,000/-. The tribunal adjudicated the issues. The liability is fixed and the coverage of policy was also established before the

Tribunal.

3. The learned counsel appearing on behalf of the appellant/Insurance Company mainly contended that future prospects granted as 30% is not in consonance with the judgments of the Supreme Court. The learned counsel appearing on behalf of the appellant is of the opinion that 25% would be appropriate for the purpose of calculating the compensation for future prospects. However, the Tribunal erroneously fixed 30% which requires re-consideration. Further, it is contended that the award of Rs.3,00,000/- towards love and affection is excess and not reasonable.

4. The learned counsel appearing on behalf of the respondents/claimants disputed the contention by stating that the Tribunal considered overall facts and circumstances and granted compensation. The said compensation cannot be construed as exorbitant and therefore, the Judgment and decree is to be

confirmed.

5. This Court is of the considered opinion that undoubtedly, the Apex Court, in such cases, fixed 25% towards future prospects, however, the Tribunal fixed 30%. This Court is of the opinion that the fact remains that the deceased was the sole bread-winner of the family and the claimants are the wife, one minor daughter and aged mother. Therefore, they were depending the income of the deceased alone. Under these circumstances, by reducing 5% towards future prospects would not cause any difference in the matter of award of compensation. Though this Court is of the opinion that the tribunal ought to have granted 25% towards loss of future prospects, 30% granted deserves no interference at this length of time, in view of the fact that the dependents are the wife, minor daughter and mother. Thus, this Court is not inclined to interfere with the assessment of 30% by the Tribunal towards loss of future prospects. However, grant of Rs.3,00,000/- towards love and affection is undoubtedly little excess and the same deserves to

be reduced by Rs.1,50,000/-. Accordingly, the said amount of Rs.1,50,000/- is deducted from the total award amount of Rs.16,35,400/- and in all other respects, the compensation awarded by the Tribunal is to be confirmed. Thus, the total compensation payable to the respondents/claimants is Rs.14,85,400/-.

6. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interest at the rate of 7.5% per annum, if not already deposited, within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the respondents/claimants are permitted to withdraw the entire amount by filing an appropriate application, as per the apportionment granted by the Tribunal. The payments are to be made through RTGS.

7. Accordingly, the civil miscellaneous appeal stands allowed in part. No costs. Consequently, connected miscellaneous petition

is also closed.

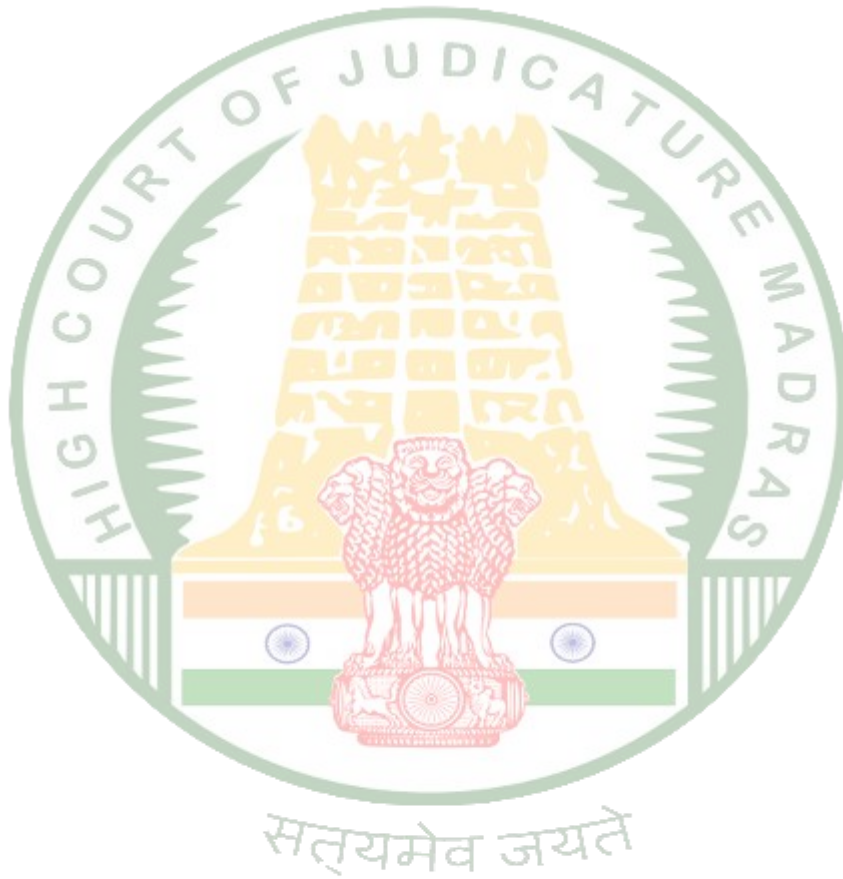
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Index: Yes/No

Internet: Yes/No

Speaking order/Non-Speaking Order



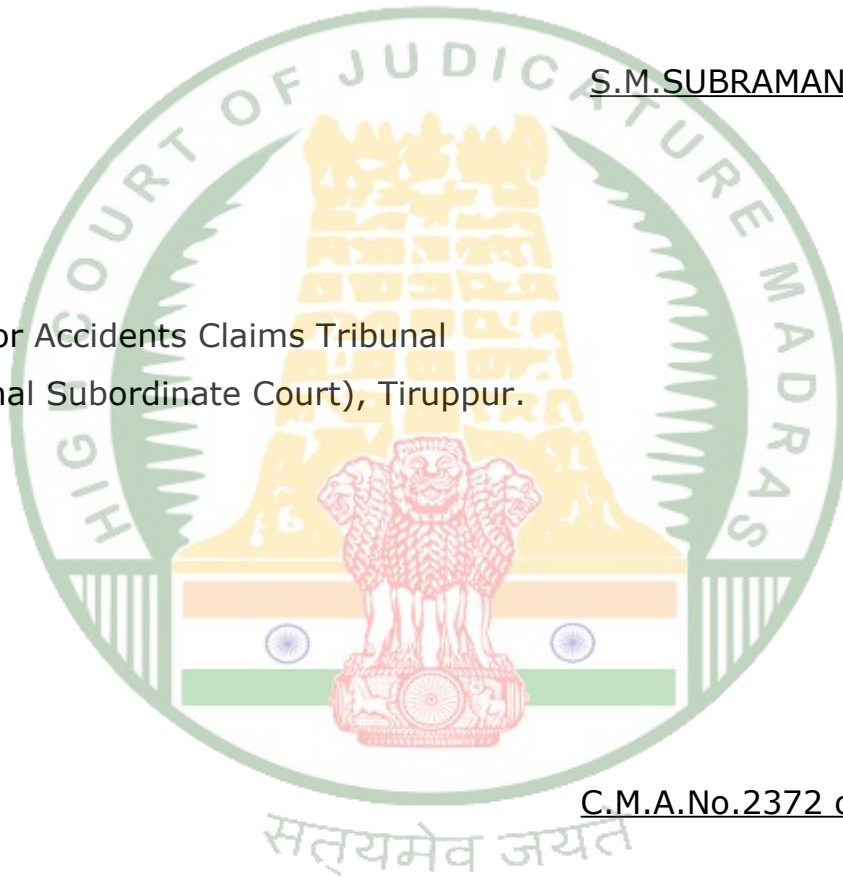
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S.M.SUBRAMANIAM, J.

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To

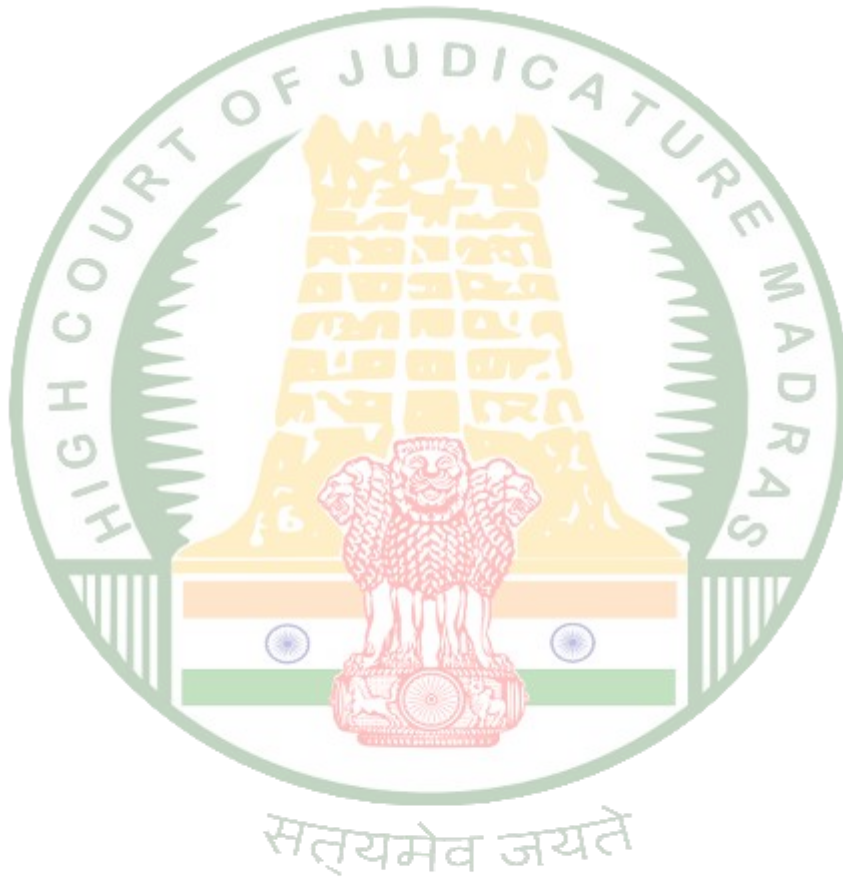
The Motor Accidents Claims Tribunal
(Additional Subordinate Court), Tiruppur.



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