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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No.163 of 2016
and
C.M.P.No.1362 of 2016

The Branch Manager,
The Oriental Insurance Company Limited,
Branch Office, 25-C, Arunagiri Complex, III Floor,
Byepass Road, Hosur-635 109.

... Appellant/2nd Respondent

/versus/

1.Thangammal

2.Amirtham

3.Poongodi

4.Murugesan

5.Manivel

6.R.Saravanan

7.R.Krishnamoorthy

... Respondents 1 to 5/Petitioners

... Respondents 6 & 7/Respondents 1 & 3

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Judgement and Decree dated 30.06.2014 made in M.C.O.P.No.23 of 2013 on the file of the Motor Accident Claims Tribunal/District Judge/Special District Court for Motor Accident Claims Cases at Krishnagiri.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.K.Prasanna for
Mr.Mukund R.Pandian for R2 to R5
R1-Died
R6 & R7-Ex-parte

J U D G M E N T

(The case has been heard through video conference)

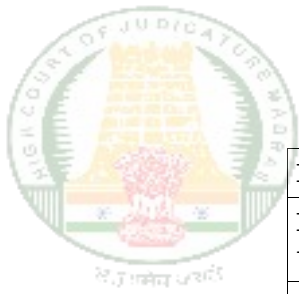
Heard the learned counsel for the appellant and the respondents 2 to 5.



3. The deceased Ramasamy, an Ex-service man, aged about 55 years, while riding his two-wheeler bearing Registration No.TN 24/2545, he was hit by another two-wheeler bearing Registration No.TN 29/Q.6076, which came in a rash and negligent manner at high speed and thus, he died in the accident. Negligence on the part of the offending vehicle is not in dispute. The claim petition filed by the widow, sons, daughters and parents was contested by the Insurance Company on the ground of quantum of compensation.

5. It is contended that without any documentary evidence, the Tribunal has fixed a sum of Rs.9,000/- as income for the deceased in the year 2006, who was aged about 55 years but deducted only 1/5th amount for his personal expenditure. The Tribunal had fixed the monthly income of the deceased as Rs.9,000/-, which should be notionally fixed as Rs.6,000/-. Taking into account the age of the deceased and proof of real estate business, deduction of personal expenditure should have been 1/3 or 1/4.

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Loss of income	Rs.5,34,600/-
Loss of consortium for the first claimant	Rs. 40,000/-
Loss of love and affection for 2 to 5 petitioners (Rs.15,000 X 4)	Rs. 60,000/-
Transport of hospital	Rs. 10,000/-
Funeral expenses	Rs. 10,000/-
Loss of Estate	Rs. 15,000/-
Total	Rs. 6,69,600/-

- Rounded off to Rs.6,70,000/- with 7.5% interest from the date of petition.

7. The learned counsel for the appellant would submit that the entire award amount with interest was deposited in M.C.O.P.No.23 of 2013 pursuant to the order passed by this Court on 05.02.2016 and the respondents were permitted to withdraw a sum of Rs.5,65,400/-.

8. In the light of the above, the appellant herein is permitted to withdraw the excess amount, if any, lying in the deposit of M.C.O.P.No.23 of 2013, after satisfying the claimants. The claimants are permitted to withdraw the balance compensation, as per the modified award passed by this Court, with 7.5% from the date of numbering the petition till the date of deposit, by filing proper application. The claimants are permitted to apportion the award amount as under:

(i) Rs.4,00,000/- for the first claimant along with proportionate interest.

(ii)Rs.67,500/- each for the claimants 2 to 5 along with proportionate interest.

9. This Civil Miscellaneous Appeal is partly allowed. No order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Audit

//True Copy//

Sub Assistant Registrar

kmm



To

District Judge/Special District Court
for Motor Accident Claims Cases,
The Motor Accident Claims Tribunal,
Krishnagiri.

Copy to

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

+1cc to Mr.Mukund R.Pandian, Advocate, S.R.No.34185.

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C.M.P.No.1362 of 2016

VG-II (CO)
HS (02/09/2021)