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C.M.A.(MD)No.872 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 17.04.2021

Delivered On : 23.04.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.872 of 2017

and C.M.P. (MD)Nos.9344 and 11511 of 2017

P.Deepa

..Appellant/1st Petitioner

Vs.

1.N.Mohanlal Babu

... 1st Respondent/2nd Petitioner

2.Mahesha

3.The Managing Director,
B.M.T.C.K.H. Road, Bangalore.

4.The United India Insurance Co. Ltd.,
Rep. By its Branch Manager,
1-Floor, Lakshmi Complex,
40, Sri Krishnarajendra Road,
Fort, Bangalore,
Karnataka State. .. Respondents 2 to 4/Respondents 1 to 3

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to modify the apportionment of quantum of compensation between the appellant and the first respondent herein, awarded by the order dated 09.05.2017 made in M.C.O.P.No.42 of 2013 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Nagercoil.

For Appellant	: Mr.S.Srinivasa Raghavan
For 1 st Respondent	: Mr.A.Balakrishnan
For 3 rd Respondent	: Mr.K.Gokul
For 2 nd Respondent	: No Appearance
For 4 th Respondent	: Mr.J.S.Murali

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.42 of 2013, dated 09.05.2017, on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Nagercoil.

2.The appellant is the first petitioner, the first respondent is the second petitioner and the respondents 2 to 4 are the respondents 1 to 3 in the claim petition. The appellant and the first respondent have filed a petition in M.C.O.P.No.42 of 2013, claiming compensation for the death of the deceased in a motor

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accident that took place on 08.04.2010 at about 09.30 a.m. The Tribunal has awarded a total sum of Rs.63,90,966/- (Rupees Sixty Three Lakhs Ninety Thousand Nine Hundred and Sixty Six only) as compensation. In which, a sum of Rs.20,90,966/- (Rupees Twenty Lakhs Ninety Thousand Nine Hundred and Sixty Six only) was awarded towards the appellant and a sum of Rs.43,00,000/- (Rupees Forty Three Lakhs only) was awarded to the first respondent. Against which, the appellant has preferred this appeal questioning the apportionment of the compensation amount.

3.On the side of the appellant, it is stated that the Tribunal has failed to consider that the second marriage of the wife is not a bar for claiming compensation. The second husband also died. The Tribunal has failed to note that the first respondent is only Clause II heir and that the first respondent is getting pension and prayed for enhancement in the apportionment of the compensation.

4.On the side of the first respondent, it is stated that the appellant re-married. Receiving pension is not a bar for getting compensation. Another son of the first respondent also died and prayed the appeal to be dismissed.

5.It is seen that the appellant remarried after the death of the first husband. It is stated that the second husband also died. The age of the first respondent is 70 years now. It is stated that he is getting pension. The first respondent is only a Clause II heir.

6.In view of the above circumstances, this Court is inclined to modify the apportionment made by the Tribunal. Hence, it is decided that the appellant is entitled to a sum of Rs.42,60,644/- (Rupees Forty Two Lakhs Sixty Thousand Six Hundred and Forty Four only) and the first respondent is entitled to a sum of Rs.21,30,322/- (Rupees Twenty One Lakhs Thirty Thousand Three Hundred and Twenty Two only).

7.With the above directions, this Civil Miscellaneous Appeal is disposed of. No Costs. Consequently connected miscellaneous petitions are closed.

Sd/-

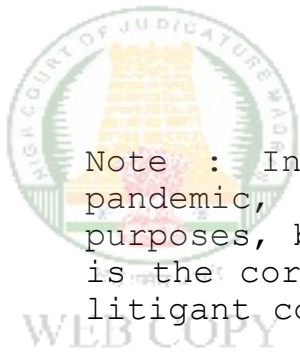
Assistant Registrar(AE)

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Sub Assistant Registrar(CS)

MRN



Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Nagercoil.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai(2 copies)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-17470[F] dated 26/04/2021)

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-17501[F] dated 26/04/2021)

+1 CC to M/s.J.S.MURALI, Advocate (SR-17430[F] dated 26/04/2021)

C.M.A.(MD)No.872 of 2017

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