

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10/4/2017

C O R A M

The Honourable Mr. Justice S. Manikumar
and
The Honourable Mr. Justice M. Govindaraj

Civil Miscellaneous Appeal No. 2699 of 2015
&
MP.No.1 of 2015

The New India Assurance Co. Ltd
East Coast Chambers
I Floor, 92 - G
G.N.Chetty Road
T. Nagar
Chennai 600 017.

....Appellant/2nd Respondent

Vs

1. Tamilselvi
 2. Minor Sri Saran
(rep. By Mother and Natural friend/
first respondent)
 3. Balamani
 4. Palanisamy
 5. Muthammal
-Respondents/Petitioners 1&2
Respondents 1,3 & 4

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 14/7/2014, made in M.C.O.P.No.777 of 2006, on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Tiruppur.

For appellant ... Ms.Harini
for Mr.N.Vijayaraghavan

For respondents ... Mr.Kaithamalai Kumaran
for Mr.T.Murugamanickam
for R.R.1 and 2.

R - 3 - ex parte

Mr.Ma.P.Thangavel
for R.4 & 5

J U D G M E N T

(Judgment of the Court was delivered by S.MANIKUMAR,J)

Being aggrieved by the quantum of compensation of Rs.1,62,61,536/-, with interest at the rate of 7.5% p.a., from the date of claim till deposit and costs, awarded in M.C.O.P.No.777 of 2006, dated 14/7/2014, on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Tirupur, New India Assurance Company Limited, T.Nagar, Chennai, has filed the instant appeal.

2. On this day, the learned counsel appearing for the contesting parties, has filed a memo, dated 10/4/2017, stating that the compensation awarded in M.C.O.P.No.777 of 2006, be restricted to Rs.1,20,00,000/- (Rupees One crore and Twenty lakhs only), as consolidated sum.

3. Memo, dated 10th April 2017, is extracted hereunder:-

"1. In supercession of the award for Rs.1,62,60,536/-, with interest at 7.5% p.a., from 26/7/2006 and proportionate costs - till date of payment by orders dated 14/7/2014 in M.C.O.P.No.777/2006 on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Tiruppur, there shall be an award for Rs.1,20,00,000/- as consolidated sum held payable by the appellant insurer in full and final settlement of the award of the lower Court payable in favour of respondents 1, 2, 4 & 5 (being widow, minor child and parents of deceased Mr.A.P.Senthil Kumar) as final award in these proceedings.

2. The appellant insurance Company having already deposited Rs.1,00,00,000/- as a consolidated sum, vide orders dated 10/12/2015, made in M.P.No.1 of 2015 shall now deposit the balance amount of Rs.20,00,000/- to the credit of M.C.O.P.No.777 of 2006, on the file of Motor Accidents Claims Tribunal, II Additional District Court, Tiruppur.

3. The claimants having already been permitted to withdraw Rs.50,00,000/- pending appeal, by orders, dated 26/4/2016, in C.M.P.No.4296/2016 shall now be entitled for the amount of Rs.70,00,000/- which shall be lying to the credit of M.C.O.P.No.777/2006 on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Tiruppur, in terms of this order.

4. The shares of the claimants being Tamilselvi (widow), minor Sri Saran Minor child, Palanisamy (father) and Muthummal (mother) shall be in terms of the allotment made in this order. The share of the minor shall remain invested in a Nationalised Bank until he attains majority - duly represented by his mother and next friend Tamilselvi.

5. The appeal in C.M.A.No.2699 of 2015 shall stand disposed of in terms of this order and there shall be no order as to costs in the appeal."

4. Memo, dated 10th April 2017, shall be treated as part of records.

5. Tribunal has apportioned the compensation in the ratio of 15:55:15:15 to the wife, minor child/father and mother, respectively. There shall be a deduction in the quantum of compensation by Rs.42,61,536/-, with proportionate interest, at the rate of 7.5% p.a. Quantum of compensation of Rs.1,20,00,000/- would be apportioned in the same manner, as stated supra.

6. Mr.Vijayaraghavan, learned counsel for the Insurance Company submitted that Rs.1,00,00,000/- (Rupees One crore only) has been deposited. Insurance Company is directed to deposit the balance amount of Rs.20,00,000/- (Rupees Twenty lakhs only), to the credit of M.C.O.P.No.777 of 2006, on the file of the

Motor Accidents Claims Tribunal, II Additional District Court, Tiruppur, within a period of four weeks, from the date of receipt of a copy of this order. The share of the minor/second respondent is not permitted to be withdrawn till he attains majority. Interest from the deposit alone is permitted to be withdrawn, once in three months, by the first respondent/mother.

7. In view of the above, this Civil Miscellaneous Appeal is ordered accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed. Memo of compromise shall form part of the record.

-s/d-

Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
II Additional District Court, Tiruppur.

+1 cc to M/s.N.Vijayaraghavan Advocate sr 21964

+1 cc to M/s.Zeenath Begum Advocate sr 21733

+1 cc to M/s.Ma.P.Thangavel Advocate sr 21970

Civil Miscellaneous Appeal No.2699 of 2015

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aa06/06/2017

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