



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos. 1114 of 2016 & 231 of 2017
and
C.M.P. (MD) .Nos.9678 of 2017 & 10133 of 2016
in
C.M.A. (MD) .No.1114 of 2016

Reliance General Insurance Company Limited,
2nd Floor, Jacksons Manorama Junction,
Selliuzhujiram, Kottayam,
Kerala State,
Represented by its Manager.

... Appellant/Respondent No.3
(in C.M.A. (MD) .No.1114 of 2016)

Stalin

... Appellant/Petitioner
(in C.M.A. (MD) .No.231 of 2017)

(Cause title accepted as per the Order of
this Court dated 17.10.2016 made in
C.M.P. (MD) .No.9536 of 2016)

Vs.

1.Stalin

(1st respondent is declared as major, the guardianship of
his father is discharged, as per the order of this Court
dated 21.06.2017, made in C.M.P. (MD) .No.124 of 2017
in C.M.A. (MD) .No.1114 of 2016)

2.Prakash

3.Raghu

4.Shigimon

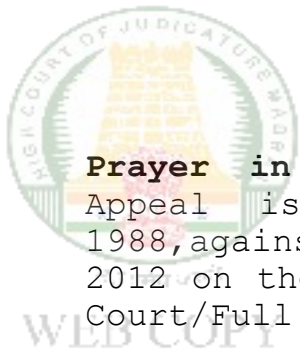
... Respondents 2 to 4/
Respondents 1,2&4/
(in C.M.A. (MD) .No.1114 of 2016)

1.Prakash

2.Raghu

3.The Manager,

The Reliance General Insurance Company Limited,
2nd Floor, Jacksons Manorama Junction,
Chilliyuzhujiram, Kottayam, Kerala State.



Prayer in C.M.A. (MD) .No.1114 of 2016: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decretal order made in M.C.O.P.No.530 of 2012 on the file of the Motor Accident Claims Tribunal, Special Sub Court/Full Additional Charge), Dindigul, dated 25.09.2014.

Prayer in C.M.A. (MD) .No.231 of 2017: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.530 of 2012 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Dindigul, dated 25.09.2014.

In C.M.A. (MD) .No.1114 of 2016:

For Appellant	: Mrs.K.R.Siva Shankari for Mr.S.Srinivasa Raghavan
For Respondent-1	: Mr.A.Saravanan
For Respondent-3	: Mr.C.Godwin
For R2 & R4	: No Appearance

In C.M.A. (MD) .No.231 of 2017:

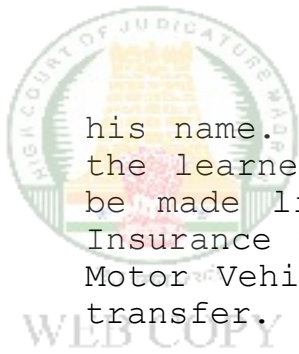
For Appellant	: Mr.A.Saravanan
For Respondent-3	: Mrs.K.R.Siva Shankari for Mr.S.Srinivasa Raghavan
For Respondent-2	: Mr.C.Godwin
For R1 & R4	: No Appearance

JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has questioned the impugned award on the ground of liability as well as quantum. The claimant has filed an independent appeal seeking enhancement of quantum of compensation. The accident occurred on 23.01.2010. The claimant was travelling as a pillion rider in the two-wheeler. The vehicle belonging to one Sigiman, who was subsequently arrayed as fourth respondent dashed against the two-wheeler. In the resulting accident, the claimant suffered fractures in his skull and other multiple injuries all over the body. He was an in-patient for a period of 57 days. Disability Certificate certifying that he was having 70% partial permanent disability was marked. The Tribunal awarded a sum of Rs.7,77,280/- as compensation. Questioning the same, both the Insurance Company as well as the claimant, preferred these appeals.

<https://hcservices.ecourts.gov.in/hcservices/> 3.The learned counsel appearing for the Insurance Company would submit that though on the date of accident the vehicle belonged to the fourth respondent Sigiman, the vehicle policy did not stand in



his name. The policy stood in the name of one Raghu. Therefore, the learned counsel would submit that the Insurance Company cannot be made liable. This contention of the learned counsel for the Insurance Company cannot be accepted in view of Section 157 of the Motor Vehicles Act, 1988. The said provision provides for deemed transfer.

4.The learned counsel appearing for the claimant would place reliance on the decision of the Hon'ble Supreme Court reported in **(2003) 3 SCC 97 Rikhi Ram Vs. Sukhrania**. This has been followed recently as on 14.07.2017 by the Supreme Court in **Firdaus Vs Oriental Insurance Company Limited & Others**. The Hon'ble Supreme Court has held that even if the vehicle is transferred to the name of another person the liability of the insurer to pay compensation to the third party shall not cease. The said decisions are squarely applicable to the facts on hand. It is also relevant to mention here that the said Sigiman had adopted the counter filed by the Insurance Company. This would show that both are acted in concert before the Tribunal. I therefore see no merit in the appeal filed by the Insurance Company.

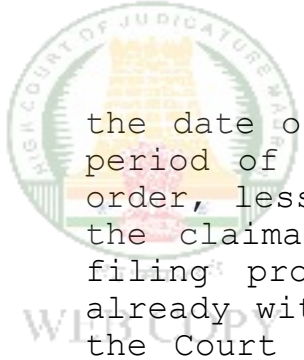
5.Coming to the question of quantum, it must be seen that out of a sum of Rs.7,77,280/-, a sum of Rs.4,60,080/- has been awarded towards medical treatment alone. The claimant was a young boy, aged about 16 years. He suffered skull fracture. So he lost his earning capacity. Therefore the compensation payable to the claimant will have to be reworked as under:-

Sl.No	Heads	Amounts in Rupees
1.	For pain and suffering	Rs.2,00,000/-
2.	For Permanent Disability	Rs.2,10,000/-
3.	For medical expenditure	Rs.4,60,080/-
4.	For transport expenses	Rs. 7,020/-
5.	For Loss of earning capacity	Rs.1,00,000/-
6.	For attender charges	Rs. 50,000/-
7.	For extra nourishment	Rs. 50,000/-
	Total	Rs.10,77,100/-

6.The compensation payable to the claimant is enhanced from Rs.7,77,280/- to Rs.10,77,100/-. The award dated 25.09.2014 made in M.C.O.P.No.530 of 2012 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Dindigul is modified accordingly.

<https://hcservices.ecourts.gov.in/hcservices/>

7.The Insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum from



the date of petition till date of realization, and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the entire compensation, by filing proper application before the Tribunal, less the amount already withdrawn by him, if any. The claimant is directed to pay the Court fee for the enhanced amount, if any, within a period of four weeks from the date of receipt of a copy of this judgment.

8.C.M.A.(MD).No.1114 of 2016 stands dismissed. C.M.A.(MD).No.231 of 2017 is partly allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Dindigul.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.J.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 85945
+ 1 CC TO Mr.C.GODWIN, ADVOCATE IN SR No. 85706
+ 2 CC TO Mr.A.SARAVANAN, ADVOCATE IN SR No. 85730 & 85731

TSG

TE/SV-MMS/SAR-3 : 26/04/2018 : 4P/8C

C.M.A.(MD)Nos. 1114 of 2016 & 231 of 2017 and
C.M.P.(MD).Nos.9678 of 2017 & 10133 of 2016
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