



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, The Seventeenth day of July Two Thousand and Seventeen

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A. (MD) No.1287 of 2015

The National Insurance Company Limited
by its Branch manager,
Nagercoil. ... Appellant/Respondent No.3

Vs.

1.Valliammal
2.Bagavathi Ammal
3.Subbaian
4.Gomathi ... Respondent 1 to 4/ Petitioners 1 to 4

5.Esakkimuthu
6.Subramanian ... Respondents 5 and 6/Respondents 1 and 2

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award made in M.C.O.P.No.92 of 2013, dated 30.09.2014 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil.

DECREE: This Civil Miscellaneous Appeal coming on for hearing on this day upon perusing the grounds of Appeal, the order of the Lower Court, and the material papers relating to this case and upon hearing the arguments of Mr.D.Sivaraman, Advocate for the Appellant and of Mr.C.Kishore, Advocate for the respondents 1 to 4 and the respondents 5 and 6 not appearing either in person or by an Advocate and this Court while allowing this Appeal in part with modification doth order and decree as follows:-

(i) That the award passed by the Motor Accident Claims Tribunal (The Chief Judicial Magistrate Court), Nagercoil made in MCOP No.92/2013 dated 30.09.2014 be and hereby is reduced from Rs.8,58,000/- (Rupees Eight Lakhs and fifty eight thousand only) to Rs.7,31,000/- (Rupees Seven Lakhs and thirty one thousand only).

(ii) That the respondents/claimants herein be and hereby are entitled for the modified Compensation of Rs.7,31,000 (Rupees Seven Lakhs Thirty one Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation and proportionate costs.

(iii) That the Appellant/Insurance Company herein be and hereby is directed to pay the award amount at the first instance and then recover the same from the owner of the vehicle/sixth respondent herein.

(iv) That the Appellant/ Insurance Company herein be and hereby



is directed to deposit the award amount to the credit of MCOP No.92/13 on the file of Motor Accident Claims Tribunal within a period of eight weeks(8) from the date of receipt of a copy of this order and in the later stage, the insurance company herein be and hereby is entitled to recover the same from the owner of the vehicle, by the way of Execution petition, without actually filing suit as held by Hon'ble Apex Court in the Judgment reported in 2004(2) CTC 464 (Oriental Insurance Co., Ltd., vs Shri Nanjappan and others)

(v) That on such deposit being made, the claimants herein be and hereby are permitted to withdraw their respective shares as apportioned by the Tribunal, with Proportionate interests and costs.

(vi) That there be no costs in this Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

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

+1cc to Mr.D.SIVARAMAN, Advocate, SR. 65769

Copy to : The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai.

ORDER DATED:17.07.2017

DECREE

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Nature of the Decree: Allowing this Appeal in part preferred against the award of the motor Accident Claims Tribunal (Chief Judicial Magistrate), Nagercoil made in MCOP No.92/13 dated 30.09.2014 etc as stated with in.

KK/SKN-RSK/SAR 2/23.10.2017/ 2P- 4C/