



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Second day of November, Two thousand and Seventeen
PRESENT

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No.1380 of 2015

The Branch Manager
M/s. United India Insurance Co. Ltd.,
P.W.D. Road, Nagercoil,
Kanyakumari District.

... Appellant/3rd Respondent

Vs.

1. Sivanthikani
2. Jegan
3. Kalaivani
4. Miss. Devi
5. Balamurugan @ Palraj
6. Vanaja

... 1 to 4 Respondents/Claimants
... 5th Respondent/1st Respondent
... 6th Respondent/2nd Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.04.2014 made in M.C.O.P.No.77 of 2013 on the file of the Motor Accident Claims Tribunal, Kanyakumari (Chief Judicial Magistrate Court), Nagercoil.

DECREE: This Civil Miscellaneous Appeal coming on for hearing on this day and upon perusing the grounds of Appeal, the order of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate Court), Nagercoil and the material papers in this Appeal and upon hearing the arguments of Mr.B.Rajesh Saravanan, Advocate for the Appellant and of Mr.T.Selvakumaran, Advocate for 1st to 4th respondents, and the 5th and 6th respondents having not appeared either in person or through their counsel, this Court while allowing the Appeal in part, and in modification of the award of the Tribunal below, doth order and decree as follows;

1. That the Order and Decree of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate Court), Nagercoil dated 11.04.2014 made in M.C.O.P.No.77 of 2013 be and is hereby modified; and

2. That appellant be and is hereby directed to recover the paid amount from the vehicle owner after satisfying the award.

3. That the appellant insurance company be and is hereby directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of twelve weeks from

the date receipt of copy of this order, less the amount already deposited, if any.

4. That the appellant be and is hereby is permitted to recover the paid amount by filing execution petition in the very same proceedings.

5. That on such deposit, the claimants are entitled to withdraw the said sum, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

6. That there be no costs in the Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
Kanyakumari (Chief Judicial Magistrate Court),
Nagercoil.

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

+1cc to Mr. T. SELVAKUMARAN, Advocate, SR. 85131

+1cc to Mr. B. RAJESH SARAIVANAN, Advocate, SR. 85747

DATED: 02.11.2017

DECREE

C.M.A. (MD) No. 1380 of 2015

NATURE OF THE DECREE:

Partly allowing this Civil Miscellaneous Appeal preferred against judgment and decree passed by the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate Court), Kanyakumari made in M.C.O.P. No. 77 of 2013 dated 11.04.2014 etc., as stated within.

KK/SV MMS/SAR 2/30.11.2017/ 2P- 5C