



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.695 of 2017
and
C.M.P. (MD) No.7260 of 2017

The Royal Sundaram Alliance General
Insurance Co. Ltd.,
Rep. by its Divisional Manager,
TVS Cooperative Store Building
Krishna Rao Tank Street,
Madurai District.

... Appellant/2nd Respondent

Vs.

1.Prabarani

2.Minor Darshini

Minor 2nd respondent rep. by mother
1st respondent Prabarani

Thangapandian Died

3.Senthamarai Kannu

(amended as per order in I.A.No.
967/2016 dated 10.11.2016)

... Respondent 1 to 3/Petitioner 1,2&4

4.Banumathi

... 4th Respondent / 1st Respondent.

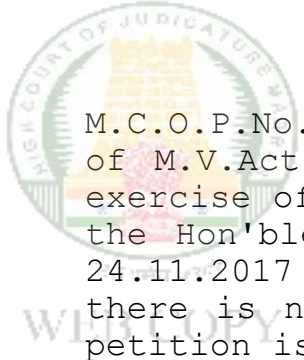
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 23.12.2016 made in M.C.O.P.No.478 of 2013 on the file of Motor Accident Claims Tribunal, (VI) Additional District Judge, Madurai.

For Appellant : Mr.S.Srinivasa Raghavan
For Respondents : Mr.A.Theethar for RR1 to R3
No Appearance for R4

JUDGMENT

The insurer is on appeal questioning the impugned award on the ground of negligence.

2.One Jeyachandran was riding a two wheeler on 19.08.2012. When a Maruti car insured with the appellant coming from the opposite side of the road, the two wheeler, the said Jeyachandran died. Crime NO.368 of 2012 was registered on the file of Vadipatti Police Station. Legal representatives of the said Jeyanchandran filed



M.C.O.P.No.478 of 2013. The petition was filed under Section 163 A of M.V.Act. Therefore, the Tribunal need not have undertaken the exercise of fastening negligence. As held by the recent decision of the Hon'ble Supreme Court in Civil Appeal No.9694 of 2013 dated 24.11.2017 (United India Insurance Co., Vs. Sunil Kumar & Anr), there is no need to conduct an enquiry to fix negligence when the petition is filed under Section 163 (A) of M.V.Act.

3.Coming to the quantum of compensation, it is seen that the Tribunal awarded a sum of Rs.4,97,000/- as compensation. The Tribunal has correctly applied the statutory formula. Therefore, the matter does not call for any interference. There is no merit in this appeal.

4.The appellant insurance company is directed to deposit the entire compensation of Rs.4,97,000/- with interest at the rate of 7.5% per annum, from the date of petition till the 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 claimants are permitted to withdraw the same as apportioned by the Tribunal by filing proper application before the Tribunal, less the amount already withdrawn by them, if any. The share of the minor claimant shall be deposited in any one of the nationalised bank and the natural guardian is permitted to withdraw the interest accrued thereon once in three months directly from the bank.

5.This civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

- 1.The Motor Accident Claims Tribunal,
(VI) Additional District Judge, Madurai.
- 2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1cc to Mr.S.Srinivasa Raghavan, Advocate, SR.No.93486

C.M.A. (MD) No.695 of 2017
and
C.M.P. (MD) No.7260 of 2017
13.12.2017