

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Wednesday, the Thirteenth day of September Two thousand and
Seventeen**

WEB COPY

PRESENT**THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A(MD)No. 1402 of 2013****and****C.M.A. (MD)No.1665 of 2013**

C.M.A(MD)No. 1402 of 2013:

1.Tamil Arasu

2.Banumathi

... Appellants /Petitioners

Vs.

1.Jessy Rajamani

2.National Insurance Company Ltd.,
Through its Branch Manager,
Second Floor,
No.92, Devarpuram Road,
Tuticorin.

... Respondents/Respondents

C.M.A. (MD)No.1665 of 2013:

National Insurance Company Limited,
Through its Branch Manager,
Second Floor,
92,Devarpuram Road,
Tuticorin.

... Appellant / 2nd Respondent

- Vs -

1.Tamil Arasu

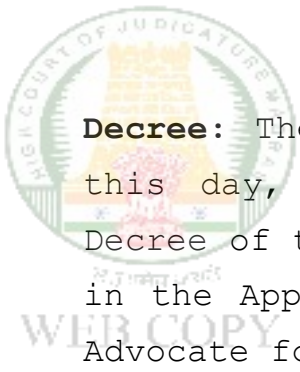
2.Banumathi

... 1st and 2nd Respondents /Petitioners

3.Jessy Rajamani

...3rd respondent/ 1st respondent

The Civil Miscellaneous Appeals under Section 173 of the Motor Vehicles Act, 1988 have been filed to set aside the Order and decree dated 08.06.2012 made in M.C.O.P.No.450 of 2011 on the file of the Motor Vehicle Claims Tribunal, Principal District Judge, Tirunelveli.



Decree: These Civil Miscellaneous Appeals coming on for hearing on this day, upon perusing the Grouds of Appeal, the Judgment and Decree of the Motor Accident Claims Tribunal and the material papers in the Appeal and upon hearing the arguments of Mr.T.Selvakumaran, Advocate for Appellant in CMA(MD)No.1402 of 2013 and Advocate for 1st and 2nd respondent in CMA(MD)No.1665 of 2013 and Mr.J.S.Murali, Advocate for the Second Respondent in CMA(MD)No.1402 of 2013 and Advocate for Appellant in CMA(MD)No.1665 of 2013, 3rd respondent in CMA(MD)No.1665 of 2013 not appeared either in person nor by an Advocate, this Court while Allowing the Appeal in CMA(MD)No.1402 of 2013 and dismissing CMA(MD)No.1665 of 2013, doth order and decree as follows:

(I) that the order and decree dated 08.06.2012 in M.C.O.P.No.450 of 2011 passed by the Motor Accident Claims Tribunal, Principal District Judge, Tirunelveli, in respect of quantum of compensation, be and hereby is enhanced from Rs.3,05,000/- (Rupees Three Lakhs and Five Thousand Only) to a sum of Rs.4,05,000/- (Rupees Four Lakhs and Five Thousand Only) and the Civil Miscellaneous Appeal (MD)No.1402 of 2013 is allowed.

(II) that the claimants are entitled to a sum of Rs.4,05,000/- along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, as apportioned by the Tribunal;

(III) that the claimants be and hereby are directed to submit their Savings Bank Account details along with the copies of their passbooks to the Tribunal forthwith;

(IV) that the Insurance Company be and hereby is directed to pay the award amount of Rs.4,05,000/- (Rupees Four Lakhs and Five Thousand Only) with accrued interests and costs, at the first instance and then, recover the same from the owner of the vehicle/first respondent by way of Execution Petition, without actually filing a 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 the Insurance Company shall deposit the award amount before the Tribunal within a period of eight weeks from the date of receipt of a copy of this judgment; and

(VI) that as the claimants have already paid court fee at the time of filing the appeal for the enhanced award amount on making such deposit by the Insurance Company the Tribunal is directed to transfer the entire award amount along with accrued interest and costs directly to the respective Personal Savings Bank Account Numbers of the Claimants, through RTGS/NEFT system, after getting their Account details, within a period of two weeks thereafter;

(VII) that the Civil Miscellaneous Appeal (MD) No. 1665 of 2013 be and hereby is dismissed;

(VIII) that there be no costs in these Civil Miscellaneous Appeals.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Motor Accidents Claims Tribunal, Tirunelveli.

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.J.S.MURALI, Advocate SR.No.78702.
+1cc to M/S.T.SELVAKUMARAN, Advocate SR.No.79145.

ORDER DATE: 13.09.2017

DECREE

C.M.A (MD) No.1402 of 2013
and
C.M.A. (MD) No.1665 of 2013