



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Twenty Seventh day of February Two Thousand and
Seventeen

PRESENT

The Hon`ble Mr.Justice N.KIRUBAKARAN

CMA(MD) No.2013 of 2013

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

Royal Sundaram Alliance Insurance
Company Ltd.,
Rep. by its Branch Manager,
"Sundaram Towers"
No.45 and 46 Whites Road,
Chennai 600 014.

... Appellant/2nd Respondent

- Vs -

1.Kaja Appas

...1st Respondent/Petitioner

2.Kandamurthy

3.Syed Ibrahim

4.The Oriental Insurance Co. Ltd.,
Rep. by its Branch Manager,
Office at no.24/E/12/A,
Sivasakthi shopping Complex,
S.N.High Road,
Tirunelveli.

... Respondents-2 to 4/
Respondents 1, 3 and 4

C.M.A. (MD) No.1811 of 2013:

1.Kaja Abbas

... Appellant / Petitioner

Vs.

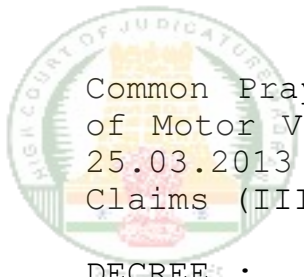
1.Kanthamurthi

2.Royal Sundaram Alliance Insurance
Company Ltd.,
Rep. by its Branch Manager,
"Sundaram Towers"
No.45 and 46 Whites Road,
Chennai 600 014.

3.Sheeyathu Ibrahim

4.The Oriental Insurance Co. Ltd.,
Rep. by its Branch Manager,
Office at no.24/E/12/A,
Sivasakthi shopping Complex,
S.N.High Road,
Tirunelveli.

... Respondents/Respondents



Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 25.03.2013 passed in M.C.O.P.No.1405 of 2010 by the Motor Accidents Claims (III Additional District and Sessions Judge), Tirunelveli.

DECREE : These Civil Miscellaneous Appeals coming on for hearing on this day, upon perusing the petition, the Appeal grounds, and the material papers in these cases, and upon hearing the arguments of Mrs.K.R.Shiva Shankari, Advocate for Mr.S.Srinivasa Raghavan, advocate for the appellant, in CMA(MD).No.2013/2013, and for Respondent No.2 in CMA(MD).No.1811/2013, and of Mr.T.Selvakumaran, advocate for the Respondent No.1 in CMA(MD).No.2013/2013 and for the Appellant in CMA(MD).No.1811/2013, and of Mr.M.P.Senthil, advocate for the Respondent No.3 in both the appeals, and the Respondent Nos.2,4 in CMA(MD).No.2013/2013, and the Respondent No.1 and 4 in CMA(MD).No.1811/2013, this Court while modifying the decree doth order and decree as follows:-

(1) that the order and decree dated 25.3.2013 in M.C.O.P.No.1405 of 2010 passed in the Motor Accident Claims Tribunal (III Additional District and Sessions Judge), Tirunelveli be and hereby are modified by enhancing the compensation from Rs.1,83,200/- (Rupees One Lakh Eighty Three Thousand and Two Hundred only) to Rs.14,23,680/- (Rupees Fourteen Lakhs Twenty Three Thousand Six Hundred and Eighty only).

(2) that the order and decree dated 25.3.2013 in M.C.O.P.No.1405 of 2010 passed by the Motor Accident Claims Tribunal (III Additional District and Sessions Judge), Tirunelveli fixing 50% negligence on the driver (claimant) of the ambulance be and hereby is set aside and the entire negligence is fixed on the offending vehicle, namely, the lorry insured with the appellant Royal Sundaram Alliance Insurance Company;

(3) that the interest granted by the Tribunal at 8% per annum from the date of claim petition till date of deposit is confirmed;

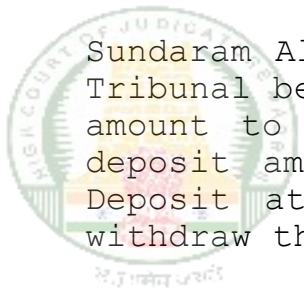
(4) that the Civil Miscellaneous Appeal No.2013 of 2013 filed by the Royal Sundaram Alliance Insurance Company be and hereby is dismissed;

(5) that the Civil Miscellaneous Appeal No.1811 of 2013 filed by the Claimant be and hereby is allowed;

(6) that the appellant Royal Sundaram Alliance Insurance Company in CMA No.2013 of 2013 be and hereby is directed to deposit the entire award amount as enhanced by this Court along with interest at 8% per annum from the date of Claim Petition till date of deposit and costs after deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of the Judgment by way of RTGS;

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(7) that on such deposit being made by the appellant Royal



Sundaram Alliance Insurance Company in CMA(MD)No.2013 of 2013, the Tribunal be and hereby is directed to transfer 50% of the deposited amount to the injured claimant alone and the balance 50% of the deposit amount is directed to be kept in interest bearing Fixed Deposit atleast for six years and the Claimant is permitted to withdraw the interest once in every two months;

(8)that the appellant/Claimant in CMA No.1811 of 2013 be and hereby is directed to pay the additional court fee for the enhanced award amount (The appellant/claimant has not paid the additional court fee for the enhanced award amount as directed till date)

(9) that there be no costs in both the Civil Miscellaneous Appeals.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

The III Additional District and Sessions Judge,
The Motor Accidents Claims Tribunal,
Tirunelveli.

Copy to:

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

+1cc to Mr.M.P.Senthil, Advocate in SR.No.11452
+1cc to Mr.T.Selvakumaran, Advocate in SR.No.11362
+1cc to Mr.S.Srinivasa Raghavan, Advocate in SR.No.10980

ORDER DATED :27/02/2017
DECREE
CMA(MD) No.2013 of 2013

Partly allowing the appeal preferred against the judgment and decree of the III Additional District & Sessions Judge, Motor Accident Claims Tribunal, Tirunelveli made in MCOP.No.1405 of 2010 etc., as stated within.

AE/MR/SAR3/18.08.2017/3P/6C

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