

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.322 of 2017 and
C.M.P.No.2311 of 2017

1.K.Rathinam

2.V.Kumarasamy

... Appellants/3rd & 4 Petitioners

Vs.

1.D.Nithya

2.Minor D.Vismitha

(Represented by her mother and
natural guardian/first respondent)

... Respondents/Petitioners 1 & 2

***3.M/S.Eureka Clothing Company,
56, Sowrnepuri Avenue,
15, Velampalayam,
Tirupur-641 652.**

**4.United India Insurance Company Limited,
139, CG Complex,
III Floor Kumaran Road,
Tirupur-641 601.**

... Respondents/Respondents

Prayer:- This appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.02.2016 made in M.C.O.P.No.1022 of 2015 on the file of the Motor Accidents Claims Tribunal, I Additional District Court, Tiruppur.

For Appellants: Mr.A.K.R.Ravi
For R1 and R2 : Dr.S.S.Swaminathan
R2 : Minor rep. by R1

For R3 : No appearance
For R4 : Mr.T.Ravichandran

JUDGMENT

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 18.02.2016 made in M.C.O.P.No.1022 of 2015 on the file of the Motor Accidents Claims Tribunal, I Additional District Court, Tiruppur.

2.When the matter is taken up for hearing, both the first appellant as well as the respondents 1 and 2 are present before this Court and their respective counsel identified their parties. All the three learned counsel appearing for the appellants as well as the learned counsel appearing for the respondents 1, 2 and 4 submitted that the second appellant died during pendency of this appeal and both the first appellant as well as the first respondent have filed compromise memo dated 13.12.2018 duly signed by all the parties and their respective counsel and agreed to withdraw their proportionate shares awarded by the Tribunal.

3.The terms of the Memorandum of Compromise dated 13.12.2018 reads as under:

"1.It is submitted that the appellants along with the respondents 1 and 2 herein filed the claim petition in M.C.O.P.No.1022 of 2015 claiming compensation of Rs.50,00,000/- for the death of Dharmaraj in the road accident occurred on 13.05.2015. On consideration of oral and documentary evidences, the Hon'ble Tribunal passed an award of compensation of Rs.25,07,000/- with 7.5% interest and apportioned the compensation at Rs.12,53,500/- to the 1st respondent, Rs.10,02,800/- to the 2nd respondent minor and Rs.1,25,350/- each to the appellants.

2.It is submitted that aggrieved by the apportionment of compensation the appellants preferred the above said appeal and also for enhancement. During the pendency of the appeal, the 2nd appellant died and the claimants namely the 1st appellant and the respondents 1 and 2 settled among themselves and arrived at a compromise forgoing the claim for enhancement of compensation in the above appeal.

3.It is submitted that according to the settlement, the 1st appellant agreed to take the compensation apportioned to her husband i.e. the 2nd appellant herein along with her share of

compensation i.e. totally Rs.2,50,700/- and the respondents 1 and 2 agreed to take the compensation apportioned to them by the Tribunal. Both the 1st appellant and the respondents 1 and 2 herein mutually agreed that the 1st appellant will not claim any share in the amount apportioned to the respondents 1 and 2 and similarly the respondents 1 and 2 will not claim any share in the amount of Rs.250,700/- agreed to be apportioned to the 1st appellant herein.

4.It is therefore agreed between the parties that the 1st appellant is entitled to Rs.2,50,700/- and the respondents 1 and 2 are entitled to the balance compensation with proportionate interest."

4.Recording the above terms of memorandum of compromise, this Civil Miscellaneous Appeal is disposed of. It is made clear that the memorandum of compromise dated 13.12.2018 shall form part of this judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

Dated:17/12/2018

*Corrected order to be issued

Sd/-

Assistant Registrar

Dated:19/02/2019

//True Copy//

Sub Assistant Registrar

To

1.The I Additional District Judge,
Motor Accidents Claims Tribunal, Tiruppur.

To be substituted
to the order
already despatched
on 19/12/2018

2.The Section Officer,
VR Section, High Court, Madras-104.

+1cc to Mr.Mr.T.Ravichandran, Advocate, S.R.No.86371

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.86869

+1cc to Mr.A.K.R.Ravi, Advocate sr.no.87275

C.M.A.No.322 of 2017 and
C.M.P.No.2311 of 2017

nr 17/12/2018

srg 01/03/2019