

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1548 of 2006
(Through Video Conferencing)

1. Maheswari
2. Major Baskaran
3. Mannammal
4. Major Arunkumar
5. Minor Divya

Appellants 5 are represented by
next friend, guardian, her mother &
first appellant.

(Appellants 2 & 4 declared as Major and
1st appellant viz., Maheswari discharged
from the guardianship vide Court order
dated 19.08.2019 made in
CMP.Nos.8459 & 8460/2018 in
CMA.No.1548/2006)

.... Appellants

Vs.

1. Gajendiran
2. The Divisional Manager,
United India Insurance Company Limited,
Vellore.

.... Respondents

Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 against the Order and Decree dated
29.04.2005 made in M.C.O.P.No.572 of 2003, on the file of the
Motor Accidents Claims Tribunal cum District Court,
Tiruvanamalai.

For Appellants : Mr.R.Thirugnanam
For Respondents:
For R1 : No appearance
For R2 : Mr.D.Bhaskaran

JUDGMENT

The claimants are the appellants in this appeal and are
aggrieved by the impugned Judgment and Decree dated 29.04.2005
passed by the Motor Accidents Claims Tribunal cum District
Court, Tiruvanamalai in M.C.O.P.No.572 of 2003.

2. By the impugned Judgment and Decree, the Tribunal has
<https://hcservices.ecourts.gov.in/hcservices/>
awarded a sum of Rs.2,54,160/- together with cost by holding

that the second respondent Insurance Company was liable to pay a sum of Rs.50,000/- under Section 147 of Motor Vehicles Act, 1988 and the balance amount of Rs.2,04,160/- payable by the first respondent/the owner of the vehicle. The Tribunal has awarded interest at 9% per annum from the date of filing of the claim petition, till the date of payment.

3. Heard, Mr.R.Thirugnanam, learned counsel appearing for the appellants and Mr.D.Bhaskaran, learned counsel appearing for the second respondent.

4. On going through the facts and circumstances of the case and considering the arguments advanced on behalf of the learned counsel for the appellants and the second respondent, it is noticed that the appellants were entitled to compensation under the provisions of the Workmen's Compensation Act, 1923.

5. Under similar circumstances, compensation was awarded for the injuries that place in the course of employment under the provisions of the Workmen's Compensation Act, 1923, in the following cases:

(i) The Oriental Insurance Company Limited Vs Kaliya Pillai and others in CMA.No.1603 of 2001 dated 30.10.2002.

(ii) Venkatesan Vs M.K.V.Kandasamy Nadar and others in CMA.No.2291 of 2002 dated 05.02.2009.

6. Therefore, the appellants/claimants are entitled for enhanced compensation of Rs.3,04,992/- together with interest at 7.5% from the date of claim petition till the date of deposit on the balance amount. The calculation is as follows:-

$$6/100 \times 3000 \times 169.44 = \text{Rs.}3,04,992/-.$$

Since there was a fatal accident, the appellants/claimants are also entitled for a sum of Rs.5,000/- towards funeral expenses. Accordingly, the total compensation is recomputed to Rs.3,04,992/- instead of Rs.2,54,160/- awarded by the Tribunal.

7. Therefore, the second respondent Insurance Company is directed to deposit the amount of compensation of Rs.3,04,992/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. Needless to state while deducting the aforesaid amount, the second respondent Insurance Company shall deduct any amount which has already been deposited.

8. On such deposit being made by the second respondent Insurance Company, the 1st to 4th appellants/claimants are permitted to withdraw the same in the same proportion together with interest accrued thereon, less the amount already

withdrawn if any, by filing suitable application before the Tribunal.

9. If fifth appellant/claimant has not been attained the age of majority, the Tribunal is directed to deposit her share in any one of the Nationalised Banks under the reinvestment scheme till she attains the age of majority and permit the first appellant/guardian of the minor to withdraw the accrued interest on the share of the fifth appellant/claimant once in three months directly from the said Bank. On attaining the majority, the fifth appellant/claimant is permitted to withdraw her share together with interest accrued thereon, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal
cum District Court, Tiruvanamalai.

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.26779

C.M.A.No.1548 of 2006

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