

IN THE HIGH COURT OF JUDICATURE AT MADRAS
MONDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.Nos.1297 of 2016

The Oriental Insurance Co Ltd.,
Branch Office - 2, No.281, Cross Cut Road,
Gandhipuram Post, Coimbatore - 641 012,
Coimbatore District. ...Appellant/3rd Respondent

/versus/

1.Vivekanandan
2.Shanthi ...Respondents 1 & 2/Petitioner
3.Mr.Krishna
4.Tmt.Vijayakumar ...Respondents 3 & 4/Respondent 1 & 2

Prayer: Appeal against the Judgment and Decree passed by the Motor Accident Claims Tribunal/Additional District Court No.3, Dharapuram, Tiruppur District, dated 07/12/2015 made in MCOP.No.244/2013.

Order: This Appeal coming on for hearing on this day, Thursday, Seventeenth day of September, Two Thousand Twenty, upon perusing the grounds of Appeal the award of the Tribunal below and the material papers in this case and upon hearing the argumetns of Mrs.Harini for M/s.M.B.Gopalan Associates for the Appellants and of Mr.Ma.P.Thangavel, Advocate for the Respondents 1 & 2 none appeared either in person or by Advocate, this Court by giving an observation that only 1/3rd negligence can be attributed to the bus driver and for the remaining 2/3rd portion, give to the owner of the two wheeler or its insurer, who could be made liable are not impleaded, the liability on the appellant is restricted to 1/3rd had allowed this appeal in part and in modification of the order of the Tribunal, doth order and decree as follows:

- A)that the award of compensation granted by the Tribunal is modified to Rs.3,72,000/- (Rupees Three lakhs Seventy two thousand only) from Rs.7,42,266/- (Rupees Seven lakhs forty two thousand two hundred and sixty six only)
- B)that since the claimant has already withdrawn 50% of the award amount the Insurance Company be and hereby shall deposit the amount greater than the 50% of the award amount now determined by this Court, if not already deposited, along with the interest of 7.5% per

- annum from the date of filing of the petition till the date of realisation, within a period of twelve weeks.
- C) That on such deposit the claimants shall withdraw their proportionate share as apportioned by the Tribunal.
- D) That in other aspects, the order of the Tribunal remains unollated.
- E) That there be no order as to costs.

Sd/-
Assistant Registrar(I)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Additional District Court No.3,
Dharapuram, Tiruppur District.

Copy to:
The Section Officer,
V.R.Section, High Court, Madras.

Order dated:28-09-2020
C.M.A.Nos.1297 of 2016
Nature of the Judgment: Allowing
the Civil Miscellaneous Appeal
preferred against the Judgment
and Decree dated 07.12.2015 made
in MCOP.No.244 of 2013 on the
file f Motor Accident Claims
Tribunal, Additional District
Court No.3, Tharapuram, Thirupur
District, etc., as stated within.

PP(CO)
CB(23/09/2021)