

IN THE HIGH COURT OF JUDICATURE AT MADRAS

MONDAY, THE THIRTEENTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY

PRESENT:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND  
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.NO.897 OF 2013  
IN  
C.M.A.NO.2189 OF 2013

C.M.A.No.897 of 2013:

Royal Sundaram Alliance Insurance Co. Ltd.,  
Sundaram Towers, 46, Whites Road,  
Royapettah, Chennai - 600 014.

...Appellant/2<sup>nd</sup> Respondent

Versus

1.B.Maragadham

2.B.Radha

3.B.Manikandan

(R2 & R3 were declared as major and her mother  
R1 discharged from the guardianship vide order  
dated 17.01.2014 made in M.P.Nos.2 to 5 of 2013  
in C.M.A.No.897 of 2013)

4.B.Manjula

(R4 was declared as major and her mother  
B.Maragadham discharged the guardianship  
vide order dated 13.03.2015 made in M.P.Nos.1 of 2015  
and 2 of 2015 in C.M.A.No.897 of 2013)

5.S.Sadayandi

...Respondents 1 to 5 / Claimants 1 to 5

6.K.Saravanan

...6<sup>th</sup> Respondent / 1<sup>st</sup> Respondent

7.A.Gandhimathi

...7<sup>th</sup> Respondent / 3<sup>rd</sup> Respondent

8.The Oriental Insurance Co. Ltd.,  
No.8, Esplanade, Chennai.

...8<sup>th</sup> Respondent / 4<sup>th</sup> Respondent

C.M.A.No.2189 of 2013:

1.B.Maragatham

2.B.Radha Minor

3.B.Manikandan Minor

4.B.Manjula Minor  
(Minors represented by their  
Mother and next friend B.Maragatham)

5.S.Sadayandi

...Appellants/Claimants

Versus

1. K.Saravanan

2. Royal Sundaram Alliance Ins. Co. Ltd.,  
Sundaram Towers, 46, Whites Road,  
Royapettah, Chennai - 600 014.

3. A.Gandhimathi

4. The Oriental Insurance Co. Ltd.,  
No.8, Esplanade, Chennai.

...Respondents/Respondents

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 28.03.2012 in M.C.O.P.No.1117 of 2007 on the file of the Motor Accident Claims Tribunal in the Small Causes Court No.V, Chennai.

Decree: These Civil Miscellaneous Appeals are coming on for hearing on this day upon perusing the Grounds of Appeal, the award of the Lower Court below and the material papers in this case and upon hearing the arguments of Mr.M.Krishnamoorthy, Advocate for the Appellant in C.M.A.No.897 of 2013 and for 2<sup>nd</sup> Respondent in C.M.A.No.2189 of 2013 and of Mr.K.V.Muthuvisakan, Advocate for the Respondents 1 to 4 in C.M.A.No.897 of 2013 and for Appellant in C.M.A.No.2189 of 2013 and of Mr.T.Jaishankar, Advocate for the 8<sup>th</sup> Respondent in C.M.A.No.897 of 2013 and for 4<sup>th</sup> Respondent in C.M.A.No.2189 of 2013 wherein 6<sup>th</sup> Respondent in C.M.A.No.897 of 2013 and 1<sup>st</sup> Respondent in C.M.A.No.2189 of 2013 having set exparte in lower court itself and steps not having been taken to serve notice to the respondents 5 and 7 in C.M.A.No.897 of 2013 and for the notice for the 3<sup>rd</sup> Respondent was dispensed with by this Court vide order dated 10.07.2018 and this Court in C.M.A.No.2189 of 2013 and this court fixed 50% liability on the insurer of the Maruti Omni Car and 50% liability on the insurer of the Mahendra Van Since both the driver of the Maruti Omni Car and the driver of the Mahendra Van were equally responsible for the accident and the Appellants in C.M.A.No.2189 of 2013 have paid the necessary Additional Court Fee for the enhanced award as per order of this Court vide SR.No.13379/2020 dated 16.09.2020 and this court while allowing these Civil Miscellaneous Appeals in part by modifying the award of the Tribunal, doth order and decree as follows:-

i) that the award of the Tribunal be and hereby is enhanced to Rs.15,40,400/- (Rupees Fifteen Lakhs Forty Thousand and Four Hundred only) from Rs.7,45,000/- (Rupees Seven Lakhs Forty Five Thousand only) as awarded by the Tribunal in M.C.O.P.No.1117 of 2007;

ii) that out of the total award amount the wife of the deceased the 1<sup>st</sup> Appellant herein in C.M.A.No.2189 of 2013/1<sup>st</sup> Respondent herein in C.M.A.No.897 of 2013 is entitled to a sum

of Rs.8,00,000/- (Rupees Eight Lakhs only) and two daughters and son of the deceased are entitled the 2 to 4 Appellants herein in C.M.A.No.2189 of 2013 / 2 to 4 Respondents herein in C.M.A.No.897 of 2013 be and hereby each for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) and father of the deceased the 5<sup>th</sup> Appellant in C.M.A.No.2189 of 2013 / 5<sup>th</sup> Respondents in C.M.A.No.897 of 2013 is entitled to Rs.1,40,400/-(Rupees One Lakh Forty Thousand and Four hundred only).

iii) that both the Insurance Companies, the Appellant in C.M.A.No.897 of 2013 / 2<sup>nd</sup> Respondent in C.M.A.No.2189 of 2013 and the 8<sup>th</sup> Respondent in C.M.A.No.897 of 2013 / 4<sup>th</sup> Respondent in C.M.A.No.2189 of 2013 and be and hereby are directed to deposit the award amount as modified by this Court, deduct the amount, if any, already deposited, along with interest at 7.5% per annum from the date of petition till the date of deposit to the credit of M.C.O.P.No.1117 of 2007 on the file of the Motor Accident Claims Tribunal, Vth Court of Small Causes Court, Chennai within a period of eight weeks from the date of receipt of a copy of this judgment. Since the 50% liability fixed on the second respondent herein in C.M.A.No.2189 of 2013 / Appellant in C.M.A.No.897 of 2013 / Royal Sundaram Alliance Insurance Ltd / Insurer of the Maruti Omni Car and remaining 50% liability fixed on the fourth respondent herein in C.M.A.No.2189 of 2013 / 8<sup>th</sup> respondent in C.M.A.No.897 of 2013 / Oriental insurance / Insurer of the Mahendra Van;

iv) that on such deposit being made, the Tribunal is directed to transfer the award amount directly to the respective bank account of the claimants, ie. the 1 to 5 respondents in C.M.A.No.897 of 2013 / Appellants in C.M.A.No.2189 of 2013 herein as per award re-determined by this Court, through RTGS, within a period of three weeks thereafter;

v) that there be no order as to costs in this Civil Miscellaneous Appeal.

Sd/-  
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,  
The Small Causes Court No.V,  
Chennai.

Copy To

The Section Officer,  
VR Section,  
High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.2354 (27/01/2022)  
+1cc to Mr.K.V.Muthuvisakan, Advocate, S.R.No.2514 (27/01/2022)  
+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.2349 (27/01/2022)

DATED : 13/01/2020

DECREE :

C.M.A.No.897 of 2013

IN

C.M.A.No.2189 of 2013

Allowing the Civil  
Miscellaneous Appeal in part  
preferred against the Judgment  
and Decree dated 28.03.2012 made  
in M.C.O.P.No.1117 of 2007 on the  
file of the Motor Accident Claims  
Tribunal in the Small Causes  
Court No.V, Chennai and etc as  
stated therein.

VBA(CO)  
RLP(09/09/2021)