

IN THE HIGH COURT OF JUDICATURE AT MADRAS

FRIDAY THE EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

Civil Miscellaneous Appeal No. 978 of 2016

1. Seethalakshmi
2. Muthu Kumar
3. Sujithra .. Appellants/Petitioners

Versus

1. Sathish
2. The Divisional Manager
The New India Assurance Company Limited
No.1, Officers Line
Vellore
3. S. Jayaraman
4. The Branch Manager
The Oriental Insurance Company Limited
No.75, Krishnan Street
Thiruvannamalai Town .. Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and Decree dated 30.10.2015 made in MCOP No. 455 of 2011 on the file of Motor Accident Claims Tribunal/Principal Subordinate Judge, Tiruvannamalai, Tiruvannamalai District.

Decree : This Civil Miscellaneous Appeal coming on for hearing upon perusing the grounds of Appeal, the award of the Tribunal below and the material papers in this case and upon hearing the arguments of Mr. S. Silambu Selvan, Advocate for the Appellant and Mr. J. Chandran, for the Second Respondent herein and Mr. K. Vinod, Advocate for the 4th Respondent herein wherein Respondents 1 & 3 having remain set exparte in lower Court itself and Court vide allowing the CMA doth order and decree as follows:

1) that the judgment and decree dated 30.10.2015 made in MCOP No.455/2011, on the file of the Motor Accident Claims Tribunal/Principal Subordinate Judge, Tiruvannamalai, Tiruvannamalai be and hereby is set aside;

2) that the Appellant herein/Claimant be and hereby are entitled for a sum of Rs.7,76,000/-(Rupees Seven lakhs Seventy six thousand only) as total compensation awarded by the Court.

3) that out of the total Compensation the Appellants herein/Claimants are entitled only for a sum of Rs.3,10,400/- (Rupees Three lakhs Ten Thousand Four Hundred only) (i.e.being 40% of the contributory negligence fixed on the part of the driver of the lorry.

4) that the Appellants herein/Claimants are not entitled for the remaining 60% of the compensation amount which were fixed on the part of the driver of the Car.

5) that the 2nd Respondent herien/New India Assurance Company is not required to pay any amount as compensation to the appellants herein/Claimants.

6) that the 4th Respondent herien/Oriental Insurance Company do pay to the Appellant herein/Claimant for a sum of Rs.3,10,400 (Rupees Three lakhs Ten Thousand Four Hundred only) as total compensation together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this judgment.

7) that on such deposit the Appellant herein/Claimant be and hereby are permitted to withdraw the entire compensation amount with accrued interest.

8) that the Appellants herein/claimants be and hereby are entitled to equal share in the Compensation amount with interest.

9) that there be no cost sin this Appeal.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Tiruvannamalai, Tiruvannamalai District.

Copy To

The Section Officer,
V.R. Section, High Court, Madras. +2 Copies

+1cc to Mr.Elveera Ravindran, Advocate SR.No.30444

DATED : 18/09/2020

DECREE :

CMA No.978 of 2016

Allowing the Civil Miscellaneous
Appeal preferred against the
judgment and decree dated
30.10.2015 made in MCOP No. 455 of
2011 on the file of Motor Accident
Claims Tribunal/Principal
Subordinate Judge, Tiruvannamalai,
Tiruvannamalai District, etc., as
stated therein.

SRA(CO)
GMY(17/08/2021)