

IN THE HIGH COURT OF JUDICATURE AT MADRAS

FRIDAY THE SIXTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT:

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

C.M.A.No.4000 of 2019

United India Insurance Company Ltd.,
5, Big Bazar Street,
Dharapuram-638656,
Tirupur District. .. Appellant /5th Respondent

Vs.

1.R.Amutha

2.Minor Roshitha

3.Minor Harshitha
(Minors 2 & 3 rep. by their mother,
next friend and guardian R.Amutha)

4.Rajamani

5.M.K.Mani ...Respondents 1 to 5/Petitioners 1 to 5

6. Praveen Traders
No.1093, TNHB Colony,
Mambakkam Main Road,
Chithalapakkam, Chennai.
... 6th Respondent/1st Respondent

7.HDFC Ergo General Insurance Co. Ltd.,
Chithalapakkam, Chennai
...7th Respondent/2nd Respondent

8.A.Dhiaaneswaran ...8th Respondent/3rd Respondent

9. Kumarasamy .. 9th Respondent/4th Respondent

Prayer:

Appeal against the Order and decree of the Motor
Accident Claims tribunal, II Additional District Judge,
Special District Judge, (FAC), Salem, dated 23/11/2018 and
made in MCOP.No.853 of 2016.

Decree: This Appeal coming on for hearing on Monday the
Thirty first day of August Two Thousand and Twenty

(31.08.2020) upon perusing the Grounds of Appeal, the order and decree of the Lower Court and the material papers in the case and upon hearing the arguments of Mr.S.Arunkumar Advocate for the Appellant and of Mr.C.Veeraraghavan, Advocate for the respondents 1 to 5 and of Mr.N.Somasundar Advocate for the Seventh respondent and sixth and eighth respondents have not appeared either in person or by an Advocate, this court while allowing the Civil Miscellaneous Appeal in part and in modification of the decree of the court below, doth order and decree as follows:

- 1.that the compensation awarded by the Order and decree of the Motor Accident Claims Tribunal, II Additional District Judge, Special District Judge(FAC) Salem, made in MCOP.No.853 of 2016 dated 23/11/2018 be and hereby by is reduced from Rs.1,19,91,440/- to Rs.78,77,750/- (Rupees Seventy Eight lakhs seventy seven thousand seven hundred and fifty only)
- 2.that the compensation amount shall carry interest at the rate of 7.5% from the date of claim petition till the date of payment.
- 3.That the Appellant herein/Insurance Company be and hereby is directed to deposit 40% of the award amount, before the tribunal.
- 4.That since the deceased contributed 60% negligence to the accident, on the legal heirs of the deceased are not entitled for the remaining 60% of the award of the compensation.
- 5.That the appellant herein/Insurance Company be and hereby shall deposit the 40% of the award amount with interest after adjusting the amount, if any, already deposited within a period of six weeks from the date of receipt of a copy of this Judgment.
- 6.That on such deposit being made, the 1st respondent/first claimant is permitted to withdraw her share as apportioned by the tribunal.
- 7.That the share of the minor respondents 2 and 3/minor claimants 2 and 3 shall be deposited by the tribunal in any Fixed Deposit Scheme in any one of the Nationalised Bank and it shall be renewed periodically till they attain majority, the first respondent/first claimant mother of the minors respondents is permitted to withdraw the accrued interest, once in three months.
- 8.That claimants 4 and 5 shall withdraw their respective shares.

9. That the apportionment of shares fixed by the tribunal to the respondents 1 to 5/claimants 1 to 5 are hereby confirmed.

10. That the eighth respondent herein is permitted to withdraw the amount if any deposited before the Tribunal;

11. that there be no costs in this Civil Miscellaneous Appeal.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
II Additional District Judge,
Special District Court (FAC), Salem.

+1cc to Mr. N. Somasundar, Advocate, S.R.No.34556

C.M.A. No.4000 of 2019
Nature of the Decree:
Allowing the Civil
Miscellaneous Appeal in part
preferred against the award
and decree of the Motor
Accident Claims Tribunal, II
Additional District Judge,
Special District Judge (FAC)
Salem, made in MCOP.No.853
of 2016 dated 23/11/2018
etc., as stated within.

VBA(CO)
CB(10/08/2021)