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IN THE HIGH COURT OF JUDICATURE AT MADRAS

FRIDAY THE TWENTY THIRD DAY OF APRIL
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.2212 of 2009 and
Cros.Obj.No.134 of 2011

C.M.A.No.2212 of 2009

Branch Manager,
The National Insurance Company Limited,
No.62, T.S.R.Big Street,
Munsif Kumbakkonam Town,
Kumbakkonam Taluk

... Appellant/2nd Respondent

Versus

1.Sasikala
2.Minor Viswanathan
3.Minor Viswapriya
(Minors 2 and 3 are represented by
the first respondent)

...Respondents 1 to 3/Petitioners 1 to 3

4.N.Manickam ...4th Respondent/1st Respondent

Cros.Obj.No.134 of 2011

1.Sasikala
2.Minor Viswanathan
3.Minor Viswapriya
(Minors 2 and 3 are represented by
the first appellant)

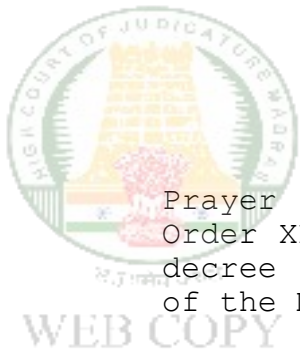
... Appellants

Versus

National Insurance Company Limited,
Rep. by its Branch Manager,
Kumbakonam

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 08.08.2008 made in MACT.OP.No.206 of 2007 on the file of the Motor Vehicle Accidents Claims Tribunal, Thiruvavur.



Prayer in Cros.Obj No.134 of 2011 : Cross Objection filed under Order XLI Rule 22 of CPC 1908 praying to modify the judgment and decree dated 08.08.2008 made in MCOP.No.206 of 2007 on the file of the Motor Accident Claims Tribunal, Tiruvarur.

Decree : This Appeal coming on for hearing on this day and upon perusing the grounds of Appeal, the order of the Lower Court and the material papers in this case and upon hearing the arguments of M/s.N.B.Surekha, Advocate for the Appellant/Respondent in Cross Objection and of Mr.M.Thamizhavel, Advocate for the Respondents 1 to 3 in Appeal/Appellants in Cross Objection and the fourth respondent in the appeal not appearing either in person or through an Advocate and the requisite Court fee for the enhanced compensation amount having been paid by the claimants/Cross Objectors in the Cross Objection, this Court while allowing the Cross Objection in part and dismissing the Civil Miscellaneous Appeal and in modification of the order of the Tribunal, and fastening the liability on the second respondent at 35% and the liability fastened on the deceased at 65% for the accident, doth order and decree as follows:

1) that the award and decree passed by the Motor Accident Claims Tribunal, Tiruvarur dated 08.08.2008 made in MCOP.No.206 of 2007 is modified and the compensation awarded by the Tribunal be and hereby is enhanced from Rs.50,000/- (Rupees Fifth thousand only) to Rs.8,56,000/- (Rupees Eight lakhs fifty six thousand only) wherein the claimants/Appellants in Cross Objection be and hereby are entitled to get 35% of the said amount i.e. Rs.3,00,000/- (Rupees Three lakhs only) from the Appellant herein/Second Respondent together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit;

2) that the apportionment of Rs.3,00,000/- (Rupees Three lakhs only) out of the enhanced award amount is as follows:

a) that the first respondent herein is entitled to Rs.1,20,000/- (Rupees One lakh twenty thousand only)

b) that the 2nd Respondent herein is entitled to Rs.90,000/- (Rupees Ninety Thousand only)

c) that the 3rd Respondent herein is entitled to Rs.90,000/- (Rupees Ninety thousand only)



3) that the Appellant herein/Insurance Company be and hereby directed to deposit the 35% of the award amount i.e. Rs.3,00,000/-, (Rupees Three lakhs only) less the amount, if any, already deposited, together with accrued interest and costs within a period of six weeks from the date of receipt of copy of this Judgment.

4) that on such deposit being made, the respondents 1 to 3 herein/claimants/Cross Objectors shall be permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

5) that the shares of the 2nd and 3rd respondents herein / minor claimants be and hereby are directed to be deposited in any one of the nationalized bank till they attain majority.

6) that the 1st respondent herein /Mother of the 2nd and 3rd respondents herein shall be permitted to withdraw the accrued interest once in three months.

7) that the Appellant herein/Insurance Company be and hereby is at liberty to recover the said amount from the fourth respondent herein/first respondent in MCOP.No.206 of 2007 in the manner known to law.

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

Sd/-
Deputy Registrar(Lol Adalat)

//True copy//

Sub Assistant Registrar

To

The Judge,
Motor Accident Claims Tribunal,
Thiruvavur.

Copy To

The Section Officer,
V.R.Section,
Madras High Court, Chennai.



+1cc to Mr.M.Thamizhavel, Advocate SR.No.24860

+1cc to M/s.N.B.Surekha, Advocate SR.No.25576

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DATED : 23/04/2021

DECREE :

C.M.A.No.2212 of 2009 and
Cros.Obj.No.134 of 2011

Dismissing the Civi
Miscellaneous Appeal and allowing
the Cross Objection in appt
preferred against the judgment an
ddecree dated 08.08.2008 made in
MACT.OP.No.206 of 2007 on the file
of the Motor Accidents claims
Tribunal, Thiruvarur etc., as
staed within.

PM(CO)
GMY(19/11/2021)