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In the High Court of Judicature at Madras

Dated : 28.7.2021

Coram

The Honourable Mr. Justice ABDUL QUDDHOSE

Civil Miscellaneous Appeal Nos.338 & 989 of 2016
& CMP.Nos.7546 of 2016 & 11044 of 2018

- 1.Nirmala
- 2.Subramani
- 3.Minor Priyanka
- 4.Minor Boobalan

minors are represented by their
next guardian/next friend mother
Nirmala

...Appellants in
CMA.No.338/2016 & R1 to
R4 in CMA.No.989 of 2016

Vs

1.Manikandan ...R1 in CMA.No.338 of 2016 & R5 in
CMA.No.989 of 2016

2.Reliance General Insurance Co. Ltd.,
3rd Floor, Sakthi Super Market Building,
No.408, Perundurai Road,
Erode-638 011.

...R2 in CMA.No.338 of 2016 &
applt.In CMA.No.989 of 2016

APPEALS under Section 173 of the Motor Vehicles Act, 1988
against the fair and decretal order dated 23.6.2015 in
MCOP.No.881 of 2013 on the file of the Motor Accidents Claims
Tribunal (Principal District Court), Namakkal.

For Claimants :Mr.C.Paraneedharan

For Insurance Company : Mr.S.Arunkumar

owner of the vehicle : set ex parte



COMMON JUDGMENT

I have heard the learned counsel for the claimants and the learned counsel appearing for the Insurance Company.

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2. CMA.No.338 of 2016 has been filed by the claimants challenging the award dated 23.6.2015 in MCOP.No.881 of 2013 on the file of the Motor Accidents Claims Tribunal (Principal District Court), Namakkal on the ground that the quantum of compensation awarded by the Tribunal is inadequate and it has to be enhanced.

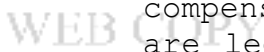
3. CMA.No.989 of 2016 has been filed by the Insurance Company challenging the very same award primarily on the ground that no pay and recovery rights were granted to them despite the fact that rider of the two wheeler was not possessing a valid driving licence at the time of accident. Hence, according to them, the insured having committed a policy violation, pay and recovery rights ought to have been granted to them by the Tribunal, which has been erroneously omitted to be granted by the Tribunal.

4. The claimants, who are the appellants in CMA.No.338 of 2016, has filed the appeal unsatisfied with the quantum of compensation awarded by the Tribunal and they sought for enhancement.

5. The details of compensation awarded by the Tribunal to the claimants under the impugned award are as follows :

S.No	Head	Amount awarded by the Tribunal
1	Loss of Income	Rs. 4,80,000/-
2	Funeral Expenses	Rs. 5,000/-
3	Loss of love and affection	Rs. 10,000/-
	Total	Rs. 4,95,000/-

6. Before the Tribunal, the Insurance Company filed three documents, which were marked as Ex.R1 to Ex.R3. They filed their insurance policy, the lawyer's notice sent by them to the insured calling upon him to produce a copy of the driving licence as well as the acknowledgment card, which proved that the lawyer's notice was duly acknowledged. Despite the fact that the insured received notice from the Insurance Company, admittedly, the insured has not produced the driving licence of the rider of the two wheeler



(d) The Tribunal has erroneously failed to award any compensation amount towards loss of estate, which the claimants are legally entitled to as per the said decision of the Hon'ble Supreme Court in the case of Pranay Sethi referred to supra. This Court, in accordance with the said judgment, awards a compensation of Rs.15,000/- to the claimants towards loss of estate.

S.No	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Loss of Income	Rs.4,80,000/-	Rs. 4,80,000/-
2	Funeral Expenses	Rs. 5,000/-	Rs. 15,000/-
3	Loss of love and affection	Rs. 10,000/-	Rs. 80,000/-
4	Loss of estate	NIL	Rs. 15,000/-
	Total	Rs.4,95,000/-	Rs.5,90,000/-

11. The Insurance Company is directed to deposit the entire award amount as determined by this Court in this appeal together with interest and costs at the rate of 7.5% per annum from the date of petition till date of realization less the amount already deposited to the credit of the claim petition within two weeks from the date of receipt of a copy of this judgment. The Tribunal itself, at the time of passing the award, permitted claimants 1



and 2 to withdraw 50% of the award amount after deposit of the award amount by the Insurance Company. Now that the minors attained majority, it is made clear that on deposit of the entire award amount to the extent indicated in this judgment, the Tribunal is directed to transfer the balance award amount together with interest lying to the credit of the claim petition as apportioned by the Tribunal directly to the bank accounts of the respective claimants through RTGS within two weeks thereafter. Proportionate court fee has to be paid by the appellants in CMA.No.338 of 2016/claimants before receiving the copy of this judgment.

Sd/-

Assistant Registrar(R)

// True Copy //

Sub Assistant Registrar

RS

To

1.The Motor Accidents Claims Tribunal
(Principal District Court), Namakkal.

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

CMA.Nos.338 & 989 of 2016 &
CMP.Nos.7546 of 2016 & 11044 of 2018

AK(CO)
CB(06/12/2021)