



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Twenty Sixth day of July Two Thousand Twenty One

PRESENT

The Hon`ble Mrs Justice S.KANNAMMAL

CMP No.10916 of 2021

IN CMA.SR.NO.41503 OF 2021

1 M.C.VASANTHI [PETITIONERS]

2 MINOR ANANDAKRISHNAN

3 MINOR.AGALYADEVI
(MINORS 2 & 3 APPELLANTS REP.BY NEXT FRIEND
MOTHER 1ST APPELLAT)

4 MUNDI

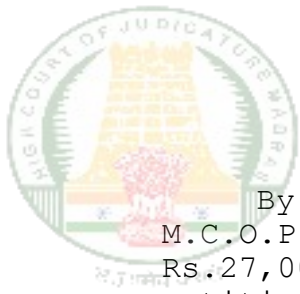
Vs

1 RAMESH JAISWAL [RESPONDENTS]

2 ORIENTAL INSURANCE COMPANY LTD.,
HATHUVA MARKET, SET KANJ,
LATHURAFIR, VAARANASI,
UTTAR PRADESH.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioners/Appellants to amend the claim of compensation amount from Rs.25,00,000/- to Rs.43,00,000/- wherever it is found in the above Civil Miscellaneous Petition against M.C.O.P.No.191 of 2011 on the file of the Honourable Motor Accidents Claims Tribunal/Subordinate Judge, Sankagiri (in CMP.10916/2021 in CMA.SR.NO.41503/2021)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.S.P.YUARAJ, Advocate for the petitioner the court made the following order:-



By the impugned judgment dated 10.03.2020 passed in M.C.O.P.No.191 of 2011, the Tribunal has awarded a compensation of Rs.27,00,000/- as against the claim of Rs.43,00,000/- made by the petitioners/who are the legal heirs of one Ramachandran, who died in a motor vehicle accident that had occurred on 13.11.2010.

2. Being dissatisfied with the quantum so awarded by the Tribunal, the petitioners/appellants/claimants have filed an appeal in C.M.A.SR.No.41503 of 2021 seeking enhancement of the same. They have also taken out an application in C.M.P.No.10916 of 2021 praying to amend the claim amount from Rs.25,00,000/- to Rs.43,00,000/- wherever it is found, stating that they are entitled to more compensation than what was claimed in the claim petition and what was awarded by the Tribunal.

3. Heard the learned counsel for the petitioners/appellants/claimants, who, after reiterating the averments made in the affidavit filed in support of this petition, submitted that the petitioners undertake to pay the required court fee for the enhanced compensation, in the event of succeeding in the appeal.

4. It is also to be noted herein that in **Nagappa v. Gurudayal Singh and others [2004 (2) TNMAC 398 (SC)]**, at paragraph 21, it was held as follows:

"21. For the reasons discussed above, in our view, under the Motor Vehicles Act, there is no restriction that Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award 'Just' compensation which is reasonable on the basis of evidence produced on record. Further, in such cases, there is no question of claim becoming time barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub section (4) to Section 166, even report submitted to the Claims Tribunal under sub section (6) of Section 158 can be treated as an application for compensation under the M.V. Act. If required, in appropriate cases, Court may permit amendment to the Claim Petition."



5. Considering the facts and circumstances of the case and also in the light of the decision of the Supreme Court (cited supra), this Court is inclined to allow this petition. Accordingly, this petition is allowed as prayed for.

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26/07/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE SUBORDIANTE JUDGE,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
SANKAGIRI.

Order

in
CMP.10916/2021

IN CMA.SR.NO.41503/2021

Date :26/07/2021

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