

IN THE HIGH COURT OF JUDICATURE AT MADRAS

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY ONE

PRESENT:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.M.A.No.2831 of 2021

1.Rose Mary
2.Dharson (Minor)
3.Rohit (Minor)
(Minors 2 and 3 are rep by their
mother and Natural guardian 1st Appellant)

4.Rajambal
5.Rajagopal ... Appellants/Petitioners

Vs.

1.K.G.Sowrirajan

2.National Insurance Company Limited,
1st Floor, Aruvi Block,
St.Paul Complex,
Bharathi Salai,
Tiruchirapalli. ...Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award and Decree dated 30.01.2019 made in M.A.C.T.O.P.No.9104 of 2015, on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

DECREE:This Civil Miscellaneous Appeal coming on as to admission on this day, 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.A.G.F.Terry Chella Raja, Advocate for the Appellants and of Mr.S.Arunkumar, Advocate for the II Respondent and this Court while allowing the Civil Miscellaneous Appeal, doth order and decree as follows:-

1.That the Judgment dated 30.01.2019 passed by the MACT V Additional Judge, Chennai made in MCOP.No.9104 of 2015 be and hereby is set aside in so far as the relates to fixation of 10%

as contributory negligence fixed by the tribunal on the deceased murugan, driver of the two Wheeler.

2.That the Appellants/Claimants be and hereby are entitled to a total sum of Rs.25,08,000/- (Rupees Twenty Five Lakhs Eight Thousand only) as compensation in their favour and they shall apportion the said amount as directed by the Tribunal.

3.That the II Respondent herein/Insurance company be and hereby is directed to deposit the compensation amount as determined in this appeal with interest and costs less the amount already deposited, if any within a period of eight weeks from the date of receipt of a copy of this Judgment.

4.That the apportionment made by the Tribunal be and hereby is confirmed.

5.That on deposit being made by the Appellants herein/Claimants 1, 4 & 5 be and hereby are permitted to withdraw their respective shares, less the amount already withdrawn, if any together with interest and costs.

6.That the Tribunal is directed to deposit the shares of the second and third Appellants herein/Second and third minor claimants in any fixed deposit scheme in any of the Nationalized banks and renewed periodically till the minors attain majority and the interest accrued therein shall be withdrawn by the 1st Respondent/1st Claimants/Mother once in three months.

7.That there be no costs in this Appeal.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

To
1.The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

Copy To
The Section Officer
V.R. Section,
High Court, Madras.

+1cc to Mr.Terry Chellaraja, Advocate SR.No.51650

DATED:01.10.2021

DECREE:

C.M.A.No.2831 of 2021

Partly allowing the Civil Miscellaneous Appeal preferred against the Judgment and Decree dated 30.01.2019 made in MACTOP.No.9104 of 2015 on the file of the Motor Accidents Claims Tribunal/V Small Causes Court, Chennai, etc., as stated therein.

MG (CO)
GN (07/02/2022)