



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.11040 of 2021

and CMA(SR) NO.60316 of 2021

1. A.JAYAPRIYA [PETITIONERS]

2. S. SAGAYARANI

Vs

1. D.LALITHA [RESPONDENTS]

2. THE NATIONAL INSURANCE COMPANY LIMITED,
PAPAKURICHI B.KRISHNA COMPLEX,
MALAIYAPPA NAGAR,
TANJAVUR MAIN ROAD, PAPAKURICHI,
TRICHIRAPALLI-DISTRICT

3. THE NATIONAL INSURANCE COMPANY LIMITED,
SELVANAYAGI COMPLEX, PERUNDURAI ROAD,
NEAR TO DISTRICT COLLECTOR OFFICE,
ERODE-638 011

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.10,00,000/- to RS.25,00,000/- wherever it is found in the above CMP against MCOP NO.518/2018 on the file of the Hon'ble MACT/Special District Judge, Erode. CMP.No.11040/2021

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.K.PREMNATH, Advocate for the petitioner the court made the following order:-

By the impugned judgment dated 15.10.2020 passed in M.C.O.P.No.518 of 2018, the Tribunal has awarded a compensation of Rs.10,00,000/- as against the claim of Rs.25,00,000/- made by the petitioners/who are the wife and mother of one Anandharaj, who died in a motor vehicle accident that had occurred on 25.04.2017.



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.60316 of 2021 seeking enhancement of the same. They have also taken out an application in C.M.P.No.11040 of 2021 praying to amend the claim amount from Rs.10,00,000/- to Rs.25,00,000/- 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.

-sd/-

26/07/2021

/ TRUE COPY /

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



TO

1. THE SPECIAL DISTRICT COURT,
MOTOR ACCIDENT CLAIMS TRIBUNAL, ERODE.

2. THE ASSISTANT REGISTRAR,
AE SECTION, HIGH COURT, CHENNAI-104

Order

in

CMP No.11040 of 2021
and CMA(SR) NO.60316 of 2021

Date :26/07/2021

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