



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
(Civil Appellate Jurisdiction)**

Tuesday, the Ninth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM

CMA(MD) . No.1419 of 2010

M/S.THE NEW INDIA ASSURANCE COMPANY LTD.

NO.3 MAIN ROAD DINDIGUL TALUK,

Dindigul DISTRICT.

THROUGH ITS BRANCH MANAGER,

.. Appellant

Vs

1 THIRUMALAICHAMY

2 CHELLAMUTHU

3 KANTHAVEL

4 KRISHNAMOORTHY

5 THE ROYAL SUNDARAM ALLIANCE

INSURANCE COMPANY LTD., NO.45, 46, WHITES,

ROAD, CHENNAI CORPORATION,

THROUGH ITS BRANCH MANAGER,

.. Respondents

Prayer:-

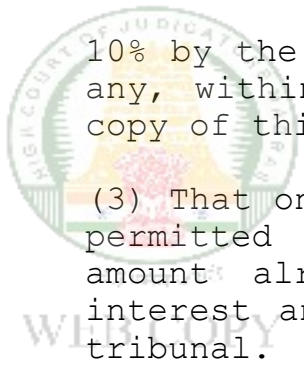
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 praying to set aside the judgment and decree, dated 26.03.2010 in MCOP.No.981 of 2008, on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge (Fast Trac Court) Dindigul.

DECREE:-

This Civil Miscellaneous Appeal having come up for final hearing on this date, upon perusing the grounds of Appeal, the order of the Tribunal and the material papers to the Appeal and upon hearing the arguments of K. MURUGESAN, Advocate for the Appellant and of C.K.M. APPAJI Advocate for the Respondent Nos. 1 and 2 and of Mr.S. SRINIVASA RAGHAVAN, Advocate for the respondent No.5 and the Respondent Nos.3 and 4 neither appeared in person nor through any advocate and this Court while modifying the award doth order and decree as follows:-

(1) That the judgment and decree, dated 26.03.2010 made by the Motor Accident Claims Tribunal, Additional District and Sessions Judge (Fast Track Court) Dindigul, in MCOP.No.981 of 2008, be and hereby is modified by fixing the contributory negligence on both drivers of the Auto Rickshaw and Lorry at 90%: 10%.

(2) That the both Insurance Companies be and hereby are directed to deposit their respective share of the award amount with accrued interest and costs (i.e., 90% by the insurer of the Auto Rickshaw and



10% by the insurer of Lorry), less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.

(3) That on such deposit being made, the claimants be and hereby are permitted to withdraw their share in the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs, as per the ratio of apportionment made by the tribunal.

(4) That there be no order as to costs in this Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

The Additional District and Sessions Court,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
Fast Track Court, Dindigul.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

ORDER DATED : 09/03/2021

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DECREE

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CMA(MD) . No.1419 of 2010

Partly allowing this Civil
Miscellaneous Appeal by modifying
the judgment and decree dated
26.3.2010 made by the Addl.Dist.
And Sessions Judge, MACT/FTC,
Dindigul, made in MCOP.No.981/08.

KB(26.05.2021) 2P 4C