



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

Tuesday, the Twenty Third day of November,
Two Thousand and Twenty One

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PRESENT

The Honourable MRS.Justice S.ANANTHI

CMA(MD). No.193 of 2020

The Divisional Manager,
Oriental Insurance Company Limited,
Divisional Office,
6-A, West Veli Street,
Bangur Dharmasala Building,
Madurai-1.

... Appellant/2nd Respondent

Vs

1. Shanthi
2. Minor Monisha

(name of the 2nd Respondent is suo-motu amended vide order dated 23.11.2021 in the above CMA)

3. Sethu
4. Uthiravalli
5. Minor Sudesan ...respondents 1 to 5/Petitioner 1 to 5
6. Duraisamy ...6th respondent/1st respondent

(Minor Respondents 2 and 5 represented by their mother and guardian, Shanthi/1st Respondent)

Prayer:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the judgment and decree of the Additional District Judge, Motor Accident Claims Tribunal (The Additional District Court), Paramakudi dated 18/02/2019 made in M.C.O.P. No.107 of 2017.

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 MR.C.KARTHIK, Advocate for the Appellant and of MR.D.SENTHIL, Advocate for the Respondents 1 to 5, this Court while allowing the Appeal in part by fixing 10 per cent contributory negligence on the part of the deceased Suresh, doth order and decree as follows:-



(1) That the quantum of compensation under the Award dated 18/02/2019 made in M.C.O.P. No.107 of 2017 on the file of the Motor Accident Claims Tribunal (The Additional District Court), Paramakudi be and hereby is confirmed;

(2) That since the Award amount has already been deposited by the Appellant/Insurance Company, the Respondents 1, 3 and 4 / Claimants 1, 3 and 4 are at liberty to withdraw 90 per cent of the Award amount as apportioned by the Tribunal, along with proportionate interest and costs, after following due process of law;

(3) That the share of the minor Respondents 2 and 5 shall be deposited in any one of the nationalised Banks till they attain majority;

(4) That the first respondent/mother and guardian of the minor Respondents 2 and 5 be and hereby is permitted to withdraw the interest from the said deposit once in three months directly from the Bank and utilize the same for the welfare of the minor children;

(5) That the Appellant/Insurance company shall withdraw the 10 percent of excess Award amount deposited by them together with proportionate interest and costs, after following the due process of law;

(6) And that there be no costs in this Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TO

The Additional District Judge,
Motor Accident Claims Tribunal
(The Additional District Court),
Paramakudi

Copy to:

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

+ 1CC to M/s D.Senthil, Advocate, copy Application Sr. No.35779 dated 25/11/2021.



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CMA(MD). No.193 of 2020

ORDER DATED : 23/11/2021

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DECREE

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CMA(MD) . No.193 of 2020

Nature of Decree:- Partly Allowing the Appeal preferred against the judgment and decree of the Motor Accident Claims Tribunal (The Additional District Court), Paramakudi dated 18/02/2019 made in M.C.O.P. No.107 of 2017 and giving directions etc. as stated therein.

KB(09.02.2022) 3P 5C