



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

Monday, the Twenty Ninth day of March Two Thousand and Twenty One

PRESENT

The Hon'ble Mr. Justice K.KALYANASUNDARAM

AND

The Hon'ble Mrs. Justice V.BHAVANI SUBBAROYAN

CMP(MD). Nos.8215 and 8217 of 2019

in

CMA(MD).Nos.532 and 1303 of 2016

Samkovil ...Petitioner in both cases

Vs

1 The Manager, M/s.Reliance General Insurance Co Ltd.,
PLA Kanaga Towers, 2nd Floor, D.No.15/A,
11th Street, Thillai Nagar Main Road, Trichy District.

...1st Respondent in CMP(MD).No.8215 of 2019 in
CMA(MD).No.532 of 2016

...2nd Respondent in CMP(MD).No.8217 of 2019 in
CMA(MD).No.1303 of 2016

2 Dhanalakshmi

...2nd Respondent in CMP(MD).No.8215 of 2019 in
CMA(MD).No.532 of 2016

...1st Respondent in CMP(MD).No.8217 of 2019 in
CMA(MD).No.1303 of 2016

Common Prayer in CMP(MD). Nos.8215 and 8217 of 2019
in CMA(MD).Nos.532 and 1303 of 2016 :

Civil Miscellaneous Petitions are filed under section 151 of Civil Procedure Code, praying this Hon'ble Court to clarified the decree and judgment passed in CMA(MD).Nos.532 and 1303 of 2016 dated 28.11.2017 and direct the respondent insurance to deposit award amount a sum of Rs.23,08,233/- with interest of 9 percentage respectively.

Common Prayer in CMA(MD).Nos.532 and 1303 of 2016 :

Civil Miscellaneous Appeals are filed under section 173 of the Motor Vehicles Act, 1988 praying this Hon'ble Court to set aside the fair and decreetal order dated 11.12.2015 made in M.C.O.P.No.618 of 2013 on the file of Motor Accident Claims Tribunal (Special District Judge), Thanjavur.



ORDER:-

Civil Miscellaneous Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.G.Karnan, Advocate for the Petitioner in both cases and of Mr.S.Srinivasa Raghavan, Advocate for the Insurance Company in both cases, this Court made the following order:

[Order of the Court was made by K.KALYANASUNDARAM,J.]

These petitions have been filed seeking clarification of the judgment and decree passed in C.M.A(MD)No.532 of 2016 and C.A.M.(MD) No.1303 of 2016, dated 28.11.2017.

2.The petitioner filed claim petition seeking compensation of Rs.50,00,000/-. The Tribunal awarded compensation of Rs.17,32,233/- by an award dated 11.12.2015. Challenging the said award, the Insurance Company preferred an appeal in C.M.A(MD)No.532 of 2016 and the appeal in C.M.A(MD)No.1303 of 2016 was filed by the claimant for enhancement of compensation.

3. It appears that after the award was passed in M.C.O.P.No.618 of 2013, the claimant filed I.A.No.260 of 2016 to include the medical expenses, which was left out in the original award. The Tribunal by an order, dated 04.04.2016, enhanced the compensation from 17,32,323/- to Rs.23,08,233/-, however, the certified copy of the decree was not issued, hence, both the appellants questioned the award passed by the Tribunal for Rs.17,32,323/-.

4. The learned counsel for the petitioner Mr.G.Karnan, would argue that since the amended award was not brought to the notice of this Court, the original award passed by the Tribunal has been confirmed in both the appeals and this amount can be included in the original award.

5. The learned counsel appearing for the Insurance Company Mr.S.Srinivasa Raghavan, has no objection.

6. In the light of the above fact, the claimant would be entitled for total compensation of Rs.23,08,233/-. Accordingly, both petitions are ordered. The Insurance Company is directed to deposit the modified award amount with accrued interest and costs within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the award amount, less the amount already withdrawn, if any.



7. The Registry is directed to carry out the necessary corrections in the judgment and decree and issue fresh order copy.

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// True Copy //

Sd/-

Assistant Registrar(CS-III)

/ /2021

Sub Assistant Registrar(CS)

To
The Special District Judge,
Motor Accident Claims Tribunal,
Thanjavur.

+1cc to Mr.G.Karnan, Advocate SR No.14338
+2cc to Mr.S.Srinivasa Raghavan, Advocate SR Nos.14572 and 14573

ORDER DATED : 29/03/2021

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ORDER
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CMP(MD). Nos.8215 and 8217 of 2019
in
CMA(MD).Nos.532 and 1303 of 2016

Giving direction and etc.
as stated within.

NS (CO)
TR(30.04.2021) 3P 5C