



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

**Tuesday, the Seventeenth day of August Two Thousand and Twenty One
PRESENT**

The Hon`ble Mrs.Justice R.THARANI

CMA(MD). No.851 of 2017

and

CMA(MD) No.374 of 2021

WEB COPY

CMA(MD) 851 of 2017

THE MANAGING DIRECTOR,
TNSTC BYE PASS ROAD, MADURAI
BEING REP BY,
THE GENERAL MANAGER,
TNSTC NAGERCOIL DIVISION, RANITHOTTAM,
NAGERCOIL VILLAGE, AGASTEESWARAM TK
KANNIYAKUMARI DT

... Appellant / 2nd Respondent

...Vs...

1.D.EZHIL USHA

W/O.T.VINCENT, 3/149-4, MALAR THERU,
ANANTHAN NAGAR, ASARIPALLAM POST,
NEENDAKARAI A VILLAGE, AGASTEESWARAM TK,
KANYAKUMARI DT..

2.V.SEHJAL (MINOR)

D/O.T.VINCENT, REP BY R1, 3/149-4, MALAR,
THERU, ANANTHAN NAGAR, ASARIPALLAM POST,
NEENDAKARAI A VILLAGE, AGASTEESWARAM TK,
KANYAKUMARI DT.

3.V.ABISH (MINOR)

D/O.T.VINCENT, REP BY R1, 3/149-4, MALAR,
THERU, ANANTHAN NAGAR, ASARIPALLAM POST,
NEENDAKARAI A VILLAGE, AGASTEESWARAM TK,
KANYAKUMARI DT. (Minor 2 & 3 are represented by first respondent
the mother as natural guardian)

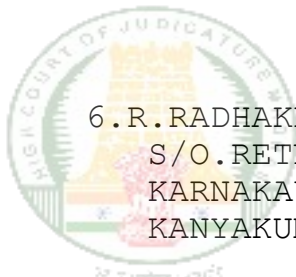
4.T.MARY THOMAS

W/O.THOMAS, 13/20, MELAPERUVILAI,
ASARIPALLAM POST, ALLOOR B VILLAGE, KALKULAM TK,
KANYAKUMARI DT.

5.T.PUSHPALATHA

D/O.THOMAS, 13/20, MELAPERUVILAI,,
ASARIPALLAM POST, ALLOOR B VILLAGE, KALKULAM TK,
KANYAKUMARI DT

... 1st to 5th Respondents / Petitioners



6.R.RADHAKRISHNAN
S/O.RETNASAMI, 25/65, NULLI VILAI,,
KARNAKAUDU POST,
KANYAKUMARI DT

... 6th Respondent/1st Respondent

CMA(MD) No.374 of 2021

1.D.Ezhil Usha, W/o. T. Vincent, No.3/149-4, Malar Theru, Ananthan Nagar, Asaripallam Post, Neendakarai A Village, Agasteeswaram Taluk, Kanyakumari District.

2. Minor V. Sehjal, T. Vincent, No.3/149-4, Malar Theru, Ananthan Nagar, Asaripallam Po, Neendakarai A Village, Agasteeswaram Tk, Kanyakumari District

3.Minor V. Abish, T. Vincent, No, 3/149-4, Malar Theru, Ananthan Nagar, Asaripallam Po, Neendakarai A Village, Agasteeswaram Tk, Kanyakumari District (Minor 2 & 3 are rep by first appellant and mother and natural guardian)

4.T.Mary Thomas(Died)

5.T.Pushpalatha D/o. Thomas, 13/20, Melaperuvilai, Alluoor B Village, Kalkulam Taluk, Kanyakumari District.

... Appellants / Petitioners

...Vs...

1. R. Radhakrishnan S/o. Retnasami, No.25/65, Nullivilai, Karankaudu Post, Kanyakumari District.

2.The Managing Director, TNSTC Bye Pass Rd., Madurai, Rep by the General Manager, Tnstc, Nagercoil Division, Ranithottam, Nagercoil Village, Agasteeswaram Tk, Kanyakumari District

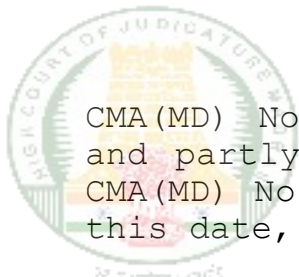
... Respondents / Respondents

COMMON PRAYER :

These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988 preferred against the award of the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Kannyakumari District at Nagercoil in MCOP No.6 of 2015 dated 20.05.2016.

DECREE: -

These Civil Miscellaneous Appeals are having come up for final hearing on Tuesday, the Twentieth day of July Two thousand and twenty one, upon perusing the grounds of Appeals, the order of the Tribunal and the material papers to the Appeals and upon hearing the arguments of Mr.P.PRABHAKARAN, Advocate for the Appellant in CMA(MD) No.851 of 2017 and Advocate for second respondent in CMA(MD) No.374 of 2021 and of Mr.T.ARUL, Advocate for the 1st 2nd 3rd and 5th respondents in CMA(MD) No.851 of 2017 and Advocate for Appellants in



CMA(MD) No.374 of 2021, while modifying the award of the Tribunal and partly allowing the CMA(MD) No.851 of 2017 and dismissing the CMA(MD) No.374 of 2021 and having stood over for consideration till this date, this Court doth order and decree as follows:-

(1) That the award amount is reduced from Rs.9,39,600/- to Rs.8,24,750/- (Rupees Eight Lakhs twenty four thousand seven hundred and fifty only).

(2) That the Appellant/Transport Corporation be and hereby is directed to deposit Rs.8,24,750/- with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of eight weeks from the date of receipt of copy of this order.

(3) That the first claimant/first respondent in CMA(MD)No.851/2017 is entitled to a sum of Rs.3,00,000/- (Rupees Three Lakhs only) and the second and third claimants/second and third respondents in CMA(MD)No.851/2017 are entitled to a sum of Rs.2,50,000/- (Rupees Two Lakhs fifty thousand only) **each** and the fifth claimant/fifth respondent is entitled to a sum of Rs.24,750/- (Rupees Twenty four thousand seven hundred and fifty only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

(4) On such deposit being made, the claimants are permitted to withdraw their respective shares with proportionate interest after deducting any amount received by them earlier

(5) That the excess amount if any deposited shall be refunded to the Transport Corporation.

(6) That the claimants are not entitled for interest for the default period, if there is any.

(7) That there be no costs in this Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar (CS III)

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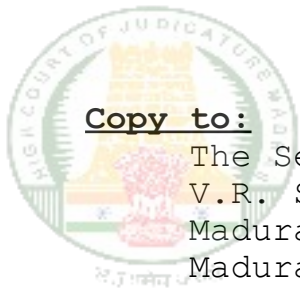
/ /2021

Sub Assistant Registrar(CS)

To

THE CHIEF JUDICIAL MAGISTRATE,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
KANNIYAKUMARI AT NAGERCOIL.

<https://hcservices.ecourts.gov.in/hcservices/>



Copy to:

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

+2 CC to M/s.P.PRABHAKARAN, Advocate (SR-26550 & SR-26551 dated 17/08/2021)

+1 CC to M/s.T.ARUL, Advocate (SR-26608 dated 18/08/2021)

ORDER DATED : 17/08/2021

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DECREE

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**CMA(MD) . No.851 of 2017
&
CMA(MD) No.374 of 2021**

Nature of Decree:- Partly allowing the CMA(MD) No.851 of 2017 and Dismissing the CMA(MD)No.374 of 2021 preferred against the award of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Kanniyakumari at Nagercoil made in MCOP No.6 of 2015 dated 20.05.2016 and etc., as stated therein

RS (03.09.2021) 4P 7C