



C.M.A(MD)No.1690 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1690 of 2013

and

M.P.(MD)No.1 of 2013

National Insurance Company Limited,
represented by the Branch Manager,
Nagercoil, Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

... Appellant

Vs.

1.Minor Jenish Lenin
2.Lalitha
3.James

... Respondents

*(Minor 1st respondent is represented by his
guardian and mother, the 2nd respondent)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 18.12.2012, made in M.C.O.P.No.18 of 2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Padmanabhapuram.

For Appellant	: Mr.J.S.Murali
For R1 and R2	: Mr.D.Srinivasa Raghavan
For R3	: Mr.C.Sankar Prakash



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JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2.The contention of the Insurance Company is that there was no 3rd party involvement in the accident but the owner of the vehicle was driving the vehicle. The owner of the vehicle is the father of the first claimant (minor) and the husband of the second claimant. When 3rd party is not involved, the Insurance Company is not liable to pay any compensation. Further, it will come under “act policy”. But the Tribunal has not taken this fact into consideration. Further the Tribunal has granted double the amount in all the heads. Therefore, the Insurance Company heavily contended that they are not liable to pay the amount. The learned Counsel for the claimants brought to the knowledge of this Court that after this accident, the minor child who is now 15 years old is in vegetative state and he cannot move and he cannot do any of his activities.

3. By considering the plea of the claimants, this Court is of the considered opinion that in order to meet the ends of justice, the Insurance Company shall pay Rs.4,00,000/- as full quit and the same will not carry any interest. The Tribunal has granted Rs.5,21,041/- with 7.5% interest as compensation but this Court is



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reducing the same to Rs.4,00,000/- as full quit (without interest). This judgment cannot be cited anywhere, since this judgment is rendered based on the special circumstances of this case.

4.The appellant Insurance is directed to deposit Rs.4,00,000/- (Rupees Four Lakh only) and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares and the claimants are entitled to equal share with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor child in a nationalized bank in an interest accruing account until the child attains majority. The 2nd respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimant attains majority, he is permitted to withdraw his share with accrued interests.



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5. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

1.Motor Accidents Claims Tribunal,
Subordinate Court, Padmanabhapuram.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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