



C.M.A(MD)No.1791 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1791 of 2013

E.Ramalingam,

... Appellant

Vs.

P.Thangaraj (died)

1.P.Muthusamy

2. M/s.National Insurance Company Limited,
Represented by its Divisional Manager,
3, North Veli Street,
Madurai – 625 001.

3.Velammal

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, against the decree and judgment dated 06.03.2013 made in M.C.O.P.No.1600 of 2005, on the file of the VI Additional District Judge, Madurai.

For Appellant	: Mr.A.Theethar
For R2	: M/s.Malini
For R3	: No Appearance
R1	: Dismissed for default



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JUDGMENT

The claimant has preferred this Civil Miscellaneous Appeal.

2. It is a case of injury. The claimant had travelled in the trailer but the trailer was not insured but the tractor was insured. Further, the injured has not preferred FIR within time and it is a belated FIR. For all these reasons, the Tribunal has granted compensation under no fault liability to the tune of Rs. 25,000/-.

3. The contention of the Insurance Company is when the liability is not fixed on the Insurance Company and it is only on the no fault liability, the petitioner is not entitled to any enhancement.

4. After considering the rival submissions, this Court is of the considered opinion that the owner of the vehicle is liable to pay the balance payment. For the mistake of the owner the injured cannot suffer. Therefore, this Court is increasing the compensation to Rs.50,000/- from Rs.25,000/-. However, the same shall carry interest from the date of filing of the present Civil Miscellaneous Appeal, i.e.,



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10.07.2013 at the rate of 7.5% per annum. The increased portion along with proportionate interest shall be paid by the Insurance Company and the same shall be recovered from the owner.

5.The 2nd respondent Insurance Company is directed to deposit Rs.50,000/- (Rupees Fifty Thousand only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, as directed by the Tribunal. The 2nd respondent Insurance Company shall deposit the balance Rs.25,000/-, however, the same shall carry interest at the rate of 7.5% from the date of filing of the present Civil Miscellaneous Appeal, i.e., 10.07.2013 till the date of deposit. The deposit shall be made within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The Insurance Company shall recover Rs.25,000/- along with accrued interest from the owner of the tractor. Since the owner of the tractor P.Thangaraj has died, the Insurance Company shall recover the same from the legal heirs of the deceased P.Thangaraj.



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6. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs.

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

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- 1.The VI Additional District Judge,
Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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