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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 1472 of 2016

and

C.M.P(MD)Nos.12360 of 2016 & 6455 of 2017

The Branch Manager,
Royal Sundaram Alliance Insurance Company Limited,
176-D & E, Trivandrum Road,
Vannarpettai,
Tirunelveli – 627 003.

... Appellant

Vs.

1. Janaki
2. Minor.N.Naveen Prasath
3. Kuppachi
4. Sundaram

... Respondents

[Minor 2nd respondent represented by his mother and next guardian 1st respondent]

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Fair and Decretal Order dated 08.01.2016 made in M.C.O.P.No.1420 of 2013 on the file of the Motor Accident Claims Tribunal/II Additional District and Sessions Court, Tirunelveli and allow this Appeal.



For Appellant : M/s.S.Srinivasaraghavanan

For R-1 to R-3 : Mr.T.Selvakumaran

JUDGEMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal to set aside the Fair and Decreetal Order, dated 08.01.2016 made in M.C.O.P.No.1420 of 2013 on the file of the Motor Accident Claims Tribunal/ II Additional District and Sessions Court, Tirunelveli

2. It is a case of fatal. The contention of the Insurance Company is that the accident occurred due to the negligence of the deceased since the vehicle had hit the stationed vehicle.

3. On perusal of the nature of the accident, it is seen that the vehicle has hit the stationed vehicle and the accident occurred in the early morning at 02.30 a.m. There is no indication in the stationed vehicle, therefore contributory negligence ought to be fixed on the stationed vehicle also. Instead of fixing contributory negligence, this Court is inclined to reduce some amount from the total compensation. The Tribunal has granted a sum of Rs.4,09,500/- as compensation and the same is reduced to a sum of Rs.3,50,000/- and interest is also reduced to 7.5%.



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4. Accordingly, the Insurance Company is directed to deposit a sum of Rs.3,50,000/-as compensation, with 7.5 % interest along with Costs, less the amount if already deposited, within a period of Eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimants are entitled their share as apportioned by the Tribunal. The 1st and 3rd claimants are permitted to withdraw their share as apportioned by the Tribunal. The share of the minor claimant shall deposit in anyone of the Nationalized Bank till he attains the age of majority. The 1st claimant/mother is permitted to withdraw the interest amount of the deposited amount of the minor claimant once in three months.

5. With these observations, this Civil Miscellaneous Appeal is Partly allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

25.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- To
1. The Motor Accident Claims Tribunal/
II Additional District and Sessions Court,
Tirunelveli.
 2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.1472 of 2016**

25.06.2024