



C.M.A(MD)No.1196 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1196 of 2018

1.C.Vimala

2.Minor.J.V.Thison

3.Minor J.V.Godlin Thisonica

... Appellants /Petitioners

Vs.

1.G.Rajeshkumar

2.T.S.Prabhudas

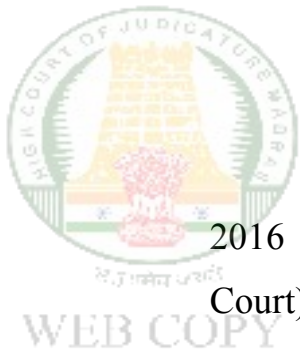
3.The New India Assurance Company Ltd.,
Office at Balamore Road,
Opp. Anna Stadium,
Nagercoil P.O.,
Kanyakumari District,
Represented by its Branch Manager.

4.The Oriental Insurance Company Ltd.,
D.D.J.Centre, 1st Floor,
Opp. Vadasery Bus Stand,
Vadasery, Nagercoil,
Kanyakumari District.

5.Abraham

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, to enhance the award passed in M.C.O.P.No.42 of



C.M.A(MD)No.1196 of 2018

2016 on the file of Motor Accident Claims Tribunal (Principal Sub-Court), Nagercoil, dated 16.08.2018.

For Petitioner : Mr.M.P.Senthil
For R1 : Mr.K.P.Narayanakumar
For R3 : Mr.B.Rajesh Saravanan
For R4 : Mr.C.Jawahar Ravindran
For R2 & R5 : No Appearance

ORDER

The present appeal has been filed challenging the award in M.C.O.P.No.42 of 2016 on the file of Motor Accident Claims Tribunal, Nagercoil seeking enhancement of compensation.

2. The claimants prayed for a sum of Rs.40,00,000/- (Rupees Forty Lakhs only) as compensation before the tribunal. The tribunal after considering the evidence on either side, directed the 3rd respondent (in the appeal) Insurance Company to pay a compensation of Rs.29,25,808/- and granted liberty to the Insurance Company to recover the same from the 1st and 2nd respondents in the appeal. The present appeal has been filed by the claimants seeking enhancement of compensation to a tune of Rs.7,00,000/- (Rupees Seven Lakhs only).



C.M.A(MD)No.1196 of 2018

3. When the matter was referred to Lok Adalat, the claimants as well as the Insurance Company entered into an agreement, agreeing to receive a sum of Rs.3,75,000/- in full quit instead of Rs.7,00,000/- without any interest. This compromise was entered on 21.12.2022. However, the said compromise could not be recorded before the Lok Adalat in view of the fact that the Insurance Company prayed to confirm the order of pay and recovery. Hence, this appeal is listed before this Court.

4. Even though the 1st and 2nd respondents in the appeal (Owners of the offending vehicle) have been served, the 1st respondent (Driver) is represented through counsel and the 2nd respondent (Owner) has not chosen to appear either in person or through counsel.

5. The tribunal has passed an award of pay and recovery which has not been challenged either by the Driver or by the owner of the offending vehicle.

6. In view of the above said deliberation, this Civil Miscellaneous Appeal is partly allowed to the extent that the 3rd respondent Insurance Company shall deposit a sum of Rs.3,75,000/- (Rupees Three Lakhs and



C.M.A(MD)No.1196 of 2018

Seventy Five Thousand only) in full quit without any interest before the tribunal within a period of eight (8) weeks from the date of receipt of copy of this order. The order of pay and recovery passed by the tribunal shall stand confirmed.

7. In view of the above, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. No costs.

29.04.2024

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

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To

1.The Motor Accident Claims Tribunal
(Principal Sub-Court),
Nagercoil.

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



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C.M.A(MD)No.1196 of 2018

R.VIJAYAKUMAR ,J.

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Order made in
C.M.A(MD)No.1196 of 2018

29.04.2024