



C.M.A(MD)No.1143 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1186 of 2021

and

C.M.P(MD)No.1186 of 2021

The Manager,
M/s.Reliance General Insurance Company,
Sri Meenakshi Plaza, First Floor,
Plot No.H.I.G.55, 80 Feet Road,
Anna Nagar, Madurai-20,
Madurai District.

... Appellant

Vs.

1. Rakku
2. Pitchai
3. Valli
4. Eswari
5. Jothimurugan
Palanikumar (Died)
6. Shanthi
7. Minor Kaviya
8. Minor Jeyakrishnan
9. Veeravalli

... Respondents



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree, dated 28.09.2016 passed in M.C.O.P No.59 of 2016 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate of Sivagangai by allowing this appeal.

For Appellant : Mr.V.Sakthivel
For R-1 to R-5 : Mr.S.Karthick Kumar
For R-6 to R-9 : No appearance

JUDGEMENT

The Insurance Company has preferred this appeal to set aside the Judgment and Decree, dated 28.09.2016 passed in M.C.O.P No. 59 of 2016 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate of Sivagangai.

2. It is a case of injury. The contention of the Insurance Company is that the alleged vehicle was not insured with them. But it is seen from the records that the Insurance Company has not produced any evidence to this effect. On the other hand, the Insurance Company has produced xerox copy of the policy marked as Ex.B.13. But, in support of their plea, the company had not adduced any evidence. Therefore, at this point of time the said plea cannot be entertained.



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3. The further contention of the Insurance Company is that the Tribunal has granted loss of love and affection to the wife and four others since the sons of the deceased are not entitled to the same. Therefore, the amount of Rs.1,40,000/-is reduced to Rs.1,00,000/-. The Tribunal has granted Rs.1,80,000/-under the head of loss of income and the same is reduced to Rs.1,60,000/-. The other compensation granted by the Tribunal is confirmed.

4. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For funeral expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed
2.	For Ambulance expenses	Rs. 2,000/-	Rs. 2,000/-	confirmed
3.	For Love and affection	Rs.1,40,000/-	Rs.1,00,000/-	reduced
4.	For loss of income	Rs.1,80,000/-	Rs.1,60,000/-	reduced
5.	For medical expenses	Rs. 700/-	Rs. 700/-	confirmed
Total		Rs. 3,32,700/-	Rs. 2,72,700/-	

with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.



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5. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed. The award amount of Rs.3,32,700/-granted in M.C.O.P.No.59 of 2016 is reduced to Rs.2,72,700/-with 7.5% interest. The Insurance Company is directed to deposit the award amount, within a period of 12 weeks, from the date of receipt of copy of the order, less the amount, if already deposited. On such deposit being made, the claimants are permitted to withdraw their respective share as apportioned by the Tribunal, less the amount if already withdrawn by them. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2024

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

KSA



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To

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1. The Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Sivagangai.
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.1186 of 2021**

23.02.2024