



C.R.P.(MD) No.961 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(MD) No.961 of 2023

Ramasamy
rep. through his guardian
father Karanthamalai

... Petitioner

Vs.

1.S.Parthiban

2.The Divisional Manager,
United India Insurance Company,
(Union Bank of India Building, Upstairs),
Madurai Road,
Virudhunagar Taluk,
Virudhunagar District.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 14.10.2022 made in I.A.No.526 of 2022 in M.C.O.P.No.15 of 2019 on the file of Motor Accidents Claims Tribunal cum Additional District Court, Virudhunagar.

For Petitioner : M/s.Shivashankari

For Second Respondent : Mr.T.Suthakaran



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ORDER

WEB COPY This Civil Revision Petition has been filed to set aside the impugned order dated 14.10.2022 passed by the Motor Accidents Claims Tribunal cum Additional District Court, Virudhunagar [for brevity, hereinafter referred to as “Tribunal”] in I.A.No.526 of 2022 in M.C.O.P.No.15 of 2019.

2. By the impugned order dated 14.10.2022, the Tribunal has dismissed I.A.No.526 of 2022 filed by the petitioner represented through his guardian/father for withdrawal of the compensation deposited to the credit of M.C.O.P.No.15 of 2019.

3. The petitioner was minor when he filed M.C.O.P.No.15 of 2019 before the Tribunal. The accident is said to have been taken place on 24.09.2018. The petitioner was aged about 16 years on the date of accident. The Tribunal has awarded a sum of Rs.59,94,500/- as compensation to the petitioner by its Judgment and Decree dated 06.10.2020 in M.C.O.P.No.15 of 2019. The relevant portion of the Judgment and Decree dated 06.10.2020 in M.C.O.P.No.15 of 2019 reads as under:-



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3)மேற்படி மொத்த இழப்பீட்டுத் தொகையில், மனுதாரர் இளவர் என்பதால் அவருக்கு இதுநாள் வரை மருத்துவச் செலவுசெய்த வகைக்காக அவரது தந்தையும் பாதுகாவலருமான திரு.கரந்தமலை என்பவர் 30 சதவீதம் தற்போது பெற்றுக்கொள்ளலாம் என்றும், மீதமுள்ள 70 சதவீத தொகை இளவர் மனுதாரர் தகுநிலை அடையும் (மேஜராகும்) காலம் வரைக்கும் இளவர் மனுதாரர் பெயரில் நிரந்தர வைப்பீட்டில் வைக்கவும், அந்த வைப்பீட்டிலிருந்து வரும் வட்டித்தொகையை அவரது தந்தையும் பாதுகாவலருமான திரு.கரந்தமலை என்பவர் ஆறு மாதத்திற்கு ஒருமுறை எடுத்துக்கொள்ளலாம் என்றும் உத்தரவிடப்படுகிறது.

4. Meanwhile, the petitioner attained age of majority and therefore, I.A.No.370 of 2022 was filed to declare the petitioner as major which was allowed. Under these circumstances, the petitioner represented through his guardian/father filed I.A.No.526 of 2022 before the Tribunal to withdraw the entire compensation amount. The Tribunal has rejected the prayer of the petitioner represented through his guardian/father with the following observations:-

So, if the entire amount is permitted to be withdrawn it will be against the interest of the petitioner/claimant. As already discussed, only in the month of January, 2022 the petitioner has withdrawn a sum of Rs.20,65,997/-. As per the order, the guardian of the petitioner is entitled to withdraw the accrued interest and in the interest of the petitioner/claimant, this court is of the view that the entire sum cannot be permitted to be withdrawn by the guardian at this stage.



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5. In the impugned order dated 14.10.2022 while dismissing the I.A. filed by the petitioner represented through his guardian/father, the Tribunal has referred to the decision of the Hon'ble Supreme Court in **Kajal Vs. Jagdish Chand and others**, (2020) 4 SCC 413.

6. Though the petitioner has filed this petition in his individual name, the Disability Certificate issued by the Medical Board confirms the nature of injury as head injury and states that the petitioner is quadriplegia with total loss of functioning of limb. The learned counsel for the petitioner submits that the petitioner is in coma stage and is fully depending on the parents and therefore, the parents can be allowed to withdraw the entire award amount.

7. The learned counsel for the second respondent Insurance Company submits that the second respondent Insurance Company has no instructions and it will abide by the orders to be passed by this Court in the present Civil Revision Petition.

8. In my view, the decision of the Hon'ble Supreme Court in **Kajal Vs. Jagdish Chand and others**, (2020) 4 SCC 413 which was referred to



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by the Tribunal applies to the facts of this case. Already a sum of Rs.

20,65,997/- was withdrawn by the guardian/father of the petitioner in the Month of January, 2022. There could be other medical expenses which may be required to be borne by the petitioner's parents, i.e. as guardian of the petitioner in future.

9. Considering the above, I am inclined to order partial modification of the impugned order by permitting the guardian/father of the petitioner to withdraw a sum of Rs.10,00,000/- for the present alone. The balance amount shall continue to remain invested in the Fixed Deposit as was ordered in the Judgment and Decree dated 06.10.2020 in M.C.O.P.No.15 of 2019.

10. The withdrawal of the balance amount shall be only after meeting the expenses in connection with the maintenance of the petitioner. Merely because the petitioner has attained majority will not entitle the guardian/parents of the petitioner to withdraw the entire amount of compensation as admittedly the petitioner is in coma stage. It is however made clear that liberty is given to the petitioner represented through his guardian/father to file a proper application depending upon the needs.



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C.SARAVANAN, J.

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11. With the above modification in the impugned order, this Civil
Revision Petition is disposed of. No cost.

12.06.2023

Internet: Yes/No

Index: Yes/ No

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To

The Motor Accidents Claims Tribunal
(Additional District Court),
Virudhunagar.

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