

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.2883 to 2887 of 2016

1. Kondamma
2. Lakshmi Devi
3. Srinivasalu
4. Neelavathy
5. Malakondaiah

... Petitioners in all CRPs

..VS..

1.R.Senthilmurugan

2. The National Insurance Co. Ltd.,
Motor III Party Claims Office,
No.751, Anna Salai,
Chennai 2

... Respondents in all CRPs

Civil Revision Petitions filed under Section 227 of the Constitution of India against the orders dated 13.04.2016 made in I.A. Nos.7 to 11 of 2016 in M.C.O.P.No.133 of 2006 on the file of Chief Judicial Magistrate, Thiruvallur.

For Petitioners : Mr.J.Mahalingam
For respondents : Mr.D.Bhaskaran (R2)
R1 – Exparte

COMMON ORDER

Heard the learned counsel for the petitioners and Mr.D.Bhaskaran, learned counsel appearing for the 2nd respondent.

2. Challenging the fair and final orders passed in I.A.Nos.7 to 11 of 2016 in M.C.O.P.No.133 of 2016 on the file of the Chief Judicial Magistrate, Thiruvallur, the claimants have filed the above Civil Revision Petitions.

3. The Original Petition in O.P.No.133 of 2016 was filed by the revision petitioners before the Motor Accidents Claims Tribunal, (hereinafter referred to as “the Tribunal”), Chief Judicial Magistrate, Thiruvallur, claiming compensation for the death of one Kandalrao, who died in a road accident. The Tribunal awarded a total compensation to the tune of Rs.10,58,360/- together with interest at the rate of 7.5%.

4. Against the award passed by the Tribunal, the claimants have filed an appeal in C.M.A.No.1853 of 2013 for enhancement of compensation. Since there was a possibility of settlement, the matter was referred to Lok Adalat and in the Lok Adalath held on 23.11.2013, the matter was settled for a total compensation of sum of Rs.12,58,360/- i.e.,

Rs.2 lakhs over and above the award passed by the Tribunal.

5. A perusal of the award passed in the Lok Adalat, it is clear that the claimants were permitted to withdraw the entire award amount to be deposited by the Insurance Company and further the Tribunal was directed to issue cheque to the claimants on proper identification in accordance with the terms of the award, without insisting for any formal permission petition.

6. Pursuant to the enhanced compensation awarded in the Lok Adalat, the claimants filed applications in I.A.Nos.7 to 11 of 2016 for permitting them to receive the enhanced compensation amount. The learned counsel appearing for the Insurance Company had no objection for permitting the claimants to withdraw the award amount. In spite of the same, the Tribunal rejected the applications, being not satisfied with the proof produced by the claimants. While dismissing the applications, the Tribunal found that at the time of filing the main original petition, the petitioners were residing at Tiruvallur and that no proof was filed to that effect at the time of the filing of the present applications.

7. The learned counsel appearing for the petitioners submitted that the Original Petition filed in the year 2006 and at that time the

petitioners were residing at Thiruvallur and now they have shifted their residence to Choolai and therefore, they have produced the present identification card to prove that they are residing at Choolai.

8. One cannot expect the petitioners to remain in the same premises for ever. When the present applications were filed, after the lapse of 10 years, we cannot expect the claimants to be remain only in Thiruvallur, without shifting their residence. When the claimants have produced their identification cards to establish that they are residing at Choolai, the Tribunal could have allowed the applications and permitted the claimants to withdraw the amount. It is also pertinent to note that claimants have appeared before the Lok Adalat and signed the award.

9. In these circumstances, the orders passed in I.A.Nos.7 to 11 of 2016 in M.C.O.P.No.133 of 2006 are set aside. The applications in I.A.Nos.7 to 11 of 2016 are allowed. Consequently, the Civil Revision Petitions are allowed. No costs.

15.11.2016

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To

The Chief Judicial Magistrate, Thiruvallur.

M. DURAISWAMY,J.,

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