



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Second day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CMP(MD) No.10193 of 2016
IN
CMA(MD) No.1057 of 2013

1 RETHINA BAI

2 ANITHA

... PETITIONERS/RESPONDENTS 1 & 2

Vs

1 REGURAM

2 MRS.SUBATRA CHANDRA

... RESPONDENTS 1 & 2/

RESPONDENTS 4 & 5

3 THE NEW INDIA ASSURANCE CO LTD.,
NAGERCOIL VILLAGE,
KANYAKUMARI DISTRICT.

...3RD RESPONDENT/APPELLANT

4 AJIN KUMAR

...4TH RESPONDENT/3RD RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner to withdraw the amount deposited by the 3rd respondent on the file of MCOP.No.149/2006 on the file of Motor Accident Claims Tribunal, Padmanabhapuram (in the court of Sub Judge, Padmanabhapuram) with accrued interest.

PRAYER IN

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. V.M.BALAMOCHAN THAMBI, Advocate for the petitioner and of M/S.K.MURUGESAN, Advocate for the respondents the court made the following order:-

The present petition is filed to withdraw the award amount already deposited by the 3rd respondent on the file of the Motor Accidents Claims Tribunal, Pathmanabapuram (in the court of Sub Judge, Padmanabapuram) in M.C.O.P.No.149 of 2006.



2.The learned counsel appearing for the 3rd respondent / Insurance Company opposed the petition by stating that it is a case of contributory negligence on the part of the driver of the two wheeler, who voluntarily hit the mini bus and therefore, the Insurance company is not liable to pay the compensation.

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3.In any event, the mini bus, which was parked on the road, was also committed the act of negligence and therefore, the total exoneration of the Insurance company from the liability is not possible and cannot be permitted. Hence, the Insurance company will not be prejudiced in the event of permitting the petitioners / claimants from withdrawing their respective share.

4.Therefore, the petition is allowed and the petitioners are permitted to withdraw 50% of their portion of the share with accrued interest as apportioned by the Tribunal through RTGS by filing necessary application before the Tribunal.

sd/-
22/11/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE MOTOR ACCIDENT CLAIMS TRIBUNAL, PADMANABHAPURAM, (SUB COURT),
PADMANABHAPURAM.

+1. C.C. to M/S. V.M.BALAMOCHAN THAMBI Advocate SR.No.71458

nbj
CSL/SS-3/SAR-III/09.01.2017 : 2P/3C

ORDER
IN
CMP(MD) No.10193 of 2016
IN
CMA(MD) No.1057 of 2013
Date :22/11/2016