

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Twelfth day of February Two Thousand Twenty

PRESENT

THE HON`BLE MS.JUSTICE V.M.VELUMANI

CMP No.2634 of 2020

in CMA.No.3155/2019

THANATHIPATHI

[PETITIONER]

Vs

1 THE DIVISIONAL MANAGER [RESPONDENTS]
THE NEW INDIA ASSURANCE CO LTD.,
PONDICHERRY.

2 RAJA

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 deposited amount along with entire accrued interest and cost lying in the credit of M.C.O.P.No.24 of 2014 on the file of the MACT/3rd Additional District and Sessions Court, Cuddalore at Vriddhachalam, is (CMP.2634/2020) pending disposal of the above CMA.No.3155 of 2019.

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.P.THAMIZHENDHI, Advocate for the petitioner and of MR.J.MICHAEL VISUVASAM, Advocate for the 1st Respondent the court made the following order:-

The learned counsel appearing for the petitioner/1st respondent in C.M.A.No.3155 of 2019 submitted that the petitioner herein is suffering from heart problem and the Doctor advised him to undergo heart surgery. To meet out the expenses, the petitioner herein seeks permission of this Court to withdraw the amount deposited by the 1st respondent, the appellant-Insurance Company.

2.The learned counsel appearing for the 1st respondent/appellant-Insurance Company contended that the petitioner herein has sustained only injury on his right eye and there is no loss of eye vision. The Medical Board has certified the percentage of disability suffered by the petitioner as 20% -

30% disability. Contrary to the disability certificate issued by the Team of the Doctors, one of the Doctors in the team deposed as P.W.3 that the petitioner suffered 70% disability. The Tribunal accepting the evidence of the said Doctor, awarded compensation by adopting multiplier method. The petitioner herein has not suffered any loss of earning capacity and therefore, he is not entitled for any compensation by adopting multiplier method. In view of the above, the petitioner herein is not entitled to withdraw the amount deposited by the 1st respondent/appellant-Insurance Company and prayed for dismissal of this petition.

3. Heard the learned counsel appearing for the petitioner herein as well as the 1st respondent/appellant-Insurance Company and perused the materials available on record.

4. This Court by order dated 29.08.2019 made in C.M.P.No.17896 of 2019 in C.M.A.No.3155 of 2019 granted interim stay on condition that the 1st respondent/appellant-Insurance Company deposits 50% of the award amount. The learned counsel appearing for the 1st respondent/appellant-Insurance Company contended that the Insurance Company has complied with the said order of this Court.

5. Considering the above submissions and the contention of the learned counsel appearing for the petitioner/1st respondent in C.M.A.No.3155 of 2019 that the petitioner is admitted in the hospital, the Doctor has advised him to undergo heart surgery and he requires money, the petitioner is permitted to withdraw the amount deposited by the 1st respondent/appellant-Insurance Company into the credit of M.C.O.P.No.24 of 2014 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Cuddalore at Vridhachalam, by filing necessary application before the Tribunal. Accordingly, this C.M.P. is ordered.

6. Post the main appeal for final hearing on 19.02.2020.

सत्यमेव जयते

-sd/-

12/02/2020

/ TRUE COPY /

WEB COPY

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE 3RD ADDITIONAL DISTRICT
AND SESSIONS JUDGE, MOTOR ACCIDENTS CLAIMS
TRIBUNAL, CUDDALORE AT VIRUDHACHALAM.

2 THE SECTION SECTION,
VR SECTION, HIGH COURT, MADRAS 104.

C.C. to M/S.P.THAMIZHENDHI Advocate SR.NO.1778

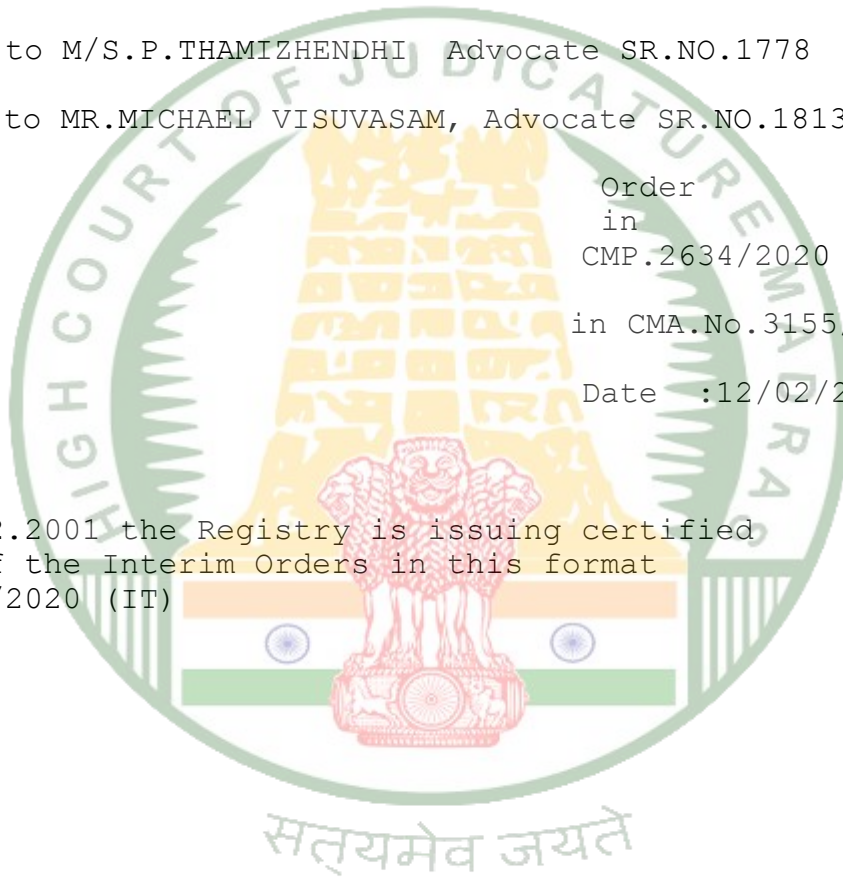
C.C. to MR.MICHAEL VISUVASAM, Advocate SR.NO.1813

Order
in
CMP.2634/2020

in CMA.No.3155/2019

Date :12/02/2020

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
RRI 13/02/2020 (IT)



WEB COPY