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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.1796 of 2020
and
C.M.P.No.13200 of 2020

The New India Assurance Co. Ltd.,
Coimbatore Branch Office at
482-483, 3rd Floor,
SNV Chamber Building,
near Power House Bus Stop,
Cross Cut Road, Gandhipuram,
Coimbatore - 641 012.

... Appellant / 3rd Respondent

vs

1.S.Natarajan (Infirmary)
represented by his son
N.S.Bhavithra Kumar
S/o.A.Subramanian

... 1st Respondent / Petitioner

2.R.Santhosh
S/o.Rajan

3.S.Mani
S/o.Subbu

... 2 & 3 Respondent / 1 & 2 Respondents

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.07.2019 passed in M.C.O.P.No.1449 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court, Coimbatore.

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.N.S.Tanvi



JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

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This matter is heard through Video-Conferencing.

2. Questioning the quantum of compensation awarded by the Tribunal in and by its judgment and decree dated 03.07.2019 passed in M.C.O.P.No.1449 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court, Coimbatore, the Insurance Company has filed the present appeal.

3. Today, when the matter is taken up for consideration, learned counsel on either side submits that the parties have arrived at a compromise and settled the matter among themselves. A Joint Memo of Compromise dated 22.03.2021 has also been filed.

4. The Joint Memo of Compromise dated 22.03.2021, signed by learned counsel on either side, reads as follows:

'MEMO OF COMPROMISE FILED BY APPELLANT AND RESPONDENT
NO.1

1. This Appeal has been preferred by the Insurance Company on the Ground of Quantum.
2. Now the Appellant herein and the 1st Respondent/Claimant have arrived at a compromise settlement whereby the Claimant has given his consent to forego a sum of Rs.15,00,000/- (Fifteen Lakhs) from the Total compensation Amount (inclusive of accumulated Interest and cost) awarded by the Tribunal, Less amount already remitted by the Appellant.
3. Relying upon the Judgment of the Apex Court in The High Court of Judicature at Madras Rep. by its Registrar General Vs. M.C.Subramaniam and others, (2021 (1) MWN 433) the Appellant herein prays for the Order of refund of Court fees.
4. It is submitted that since the appeal is only on Quantum, the Respondent No.2 and Respondent No.3 being Driver and Owner of the Insured vehicle are not necessary parties in this proceedings.
5. Hence we pray the leave of this Honourable Court to record the aforesaid submissions for disposal of this Appeal and thus render justice.'



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5. Recording the compromise arrived at between the parties, the Civil Miscellaneous Appeal is disposed of. The Joint Memo of Compromise dated 22.03.2021 shall form part of the record. No costs. Connected miscellaneous petition is closed.

6. Relying upon the judgment of the Apex Court in The High Court of Judicature at Madras Rep. by its Registrar General Vs. M.C.Subramaniam and others, (2021 (1) MWN 433), learned counsel for appellant Insurance Company submits that the appellant Insurance Company is entitled for refund of full Court fee. In the said judgment, the Apex Court has held that wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court, the Appellant would be entitled for refund of Court fee.

Following the judgment of the Apex Court, this Court directs the Registry to refund the Court fee deposited by appellant Insurance Company.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Motor Accident Claims Tribunal,
Special Sub Court, Coimbatore.

2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.S.Dhakshanamoorthy, Advocate, S.R.No.18956

+1cc to Mr.D.Nagasaila, Advocate, S.R.No.19222

C.M.A.No.1796 of 2020

SSD(CO)

SB(28/09/2021)