

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.642 of 2021

R. Devadharshini

... Petitioner

Vs.

1. Murugaboopathi

2. The Branch Manager,
New India Assurance Company Ltd.
69-C, North Ratha Street, Thiruchengode.

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying for to direct the learned Sub-ordinate Judge Rasipuram to entertain unnumbered I.A. in M.C.O.P. No.31 of 2010 and number the same.

For Petitioner ... Mr.R. Nalliyappan

For Respondents ... No Appearance

ORDER

The Civil Revision Petition has been filed Article 227 of the Constitution of India praying for to direct the learned Sub-ordinate Judge Rasipuram to entertain unnumbered I.A. in M.C.O.P. No.31 of 2010 and number the same.

2. The case of the petitioner is that on the death of the father of the petitioner herein in a road accident caused by the the driver of the 1st respondent vehicle, the petitioner and others, who are the legal heirs of the deceased, have filed MCOP No.31 of 2010 under Section 166 of Motor Vehicle Act, on the file of the Motor Accidents Claim Tribunal, Rasipuram, claiming compensation of Rs.25 Lakhs. However, the Tribunal has awarded an amount of Rs.16,32,000/- to the claimants by award and decree dated 29.02.2012. Being aggrieved, at the time of appeal to be filed by the 2nd respondent/Insurance company against the aforesaid award amount, it appears that a compromise memo for an amount of Rs.10 Lakh between the claimants and the 2nd respondent was arrived and the same was filed before the Sub-Court, Rasipuram on 12.10.2012, having the details of proportion of each claimants and

Corporation Bank Cheque details for having deposited the compensation amount of Rs.12,08,273/- along with interest. At the time of the filing of the claim petition in MCOP No.31 of 2010, 2nd claimant, 3rd claimant/petitioner herein and 4th claimant are minors, hence, their share amount of Rs.1,90,000/- each had been deposited in the Nationalized bank and other claimants were permitted to withdraw their respective shares along with interest as per the compromised memo entered into between the both parties. Since the petitioner herein who is the 3rd claimant had attained majority, she has filed I.A.(unnumbered) along with related documents before the Court below seeking for permission to withdraw her share of Rs.1,90,000/- along with interest. (Totally a sum of Rs.2,25,141/-) in the the compensation amount. The Court below has returned the unnumbered I.A. by holding that the award amount is not tallied with the award copy. Hence this petition has been filed to direct the Sub-Court, Rasipuram, to entertain the unnumbered I.A. in MCOP No.31 of 2010.

3. The learned Counsel for the petitioner would submit that after the award passed by the Tribunal, a compromise has been arrived

between the claimants and the 2nd respondent/Insurance Company. Based on the compromise, the 2nd respondent/Insurance company has filed a compromised memo along with proportioned amount of each claimants and deposited the amount of compensation in the Nationalized Bank accordingly and the same was recorded by the Court below. Pursuant to that the 1st claimant, 5th claimant and 6th claimant were allowed to withdraw their respective shares. However, the shares of the 2nd, 3rd and 4th claimants were directed to keep in the Nationalized Bank since they were minors at time of the filing of MCOP. Now, after attaining major, the petitioner has filed the I.A. (unnumbered) before the Court below with detailed affidavit, seeking for permission to withdraw her compensation amount of Rs.2,25,141/- (Award Amount of Rs.1,90,000/- + Interest amount of Rs.35,141/-). Without considering the aforesaid facts and circumstances of the case, the Court below has returned the said unnumbered I.A by holding that the petition mentioned amount and the award amount is not tallied with each other. As it is untenable and illegal, this Court may direct the Court below to entertain the application and to disburse the award amount.

4. Heard, the learned counsel for the petitioner and perused the material available on record.

5. On a perusal of the record, it is an admitted fact that the 2nd respondent/Insurance company has deposited the compensation amount of Rs.12,08,273/- along with interest. (compensation amount of Rs.10,00,000/- + 2,08,273/- (Interest + Cost)) after filing the compromised memo on 12.10.2012 before the Sub-Ordinate Court, Rasipuram and the same was received and recorded on the same date with the seal by the Sub-Court, Rasipuram, after passing the award of Rs.16,32,000/- by the Tribunal on 29.02.2012. While other claimants are allowed to withdraw their respective shares, the shares of the minors are were directed to be deposited in the Bank. As of now the minors have became majors, they are entitled to withdraw their respective shares from the Bank after filing the application before the Court below.

6. Under these circumstances, the Court below cannot return the application without numbering the same on the ground of difference in tally of the award amount. Hence, the petitioner is directed to represent

the application before the Court below and the Court below is directed to verify what amount has been deposited by the 2nd respondent/Insurance company in the minor's account and whatever interest amount is accrued thereon which has to be paid to the petitioners herein. Thereafter, the Court below shall pass the order accordingly by allowing the application. Further, there is no dispute in the claim of the parties, the Court below shall number the application if it is otherwise in order.

7. Registry is directed to return the originals filed by the petitioner herein having copy of the same along with typed set of papers.

8. In the result, the Civil Revision petition is allowed. Consequently, connected miscellaneous petition is closed if any. No costs.

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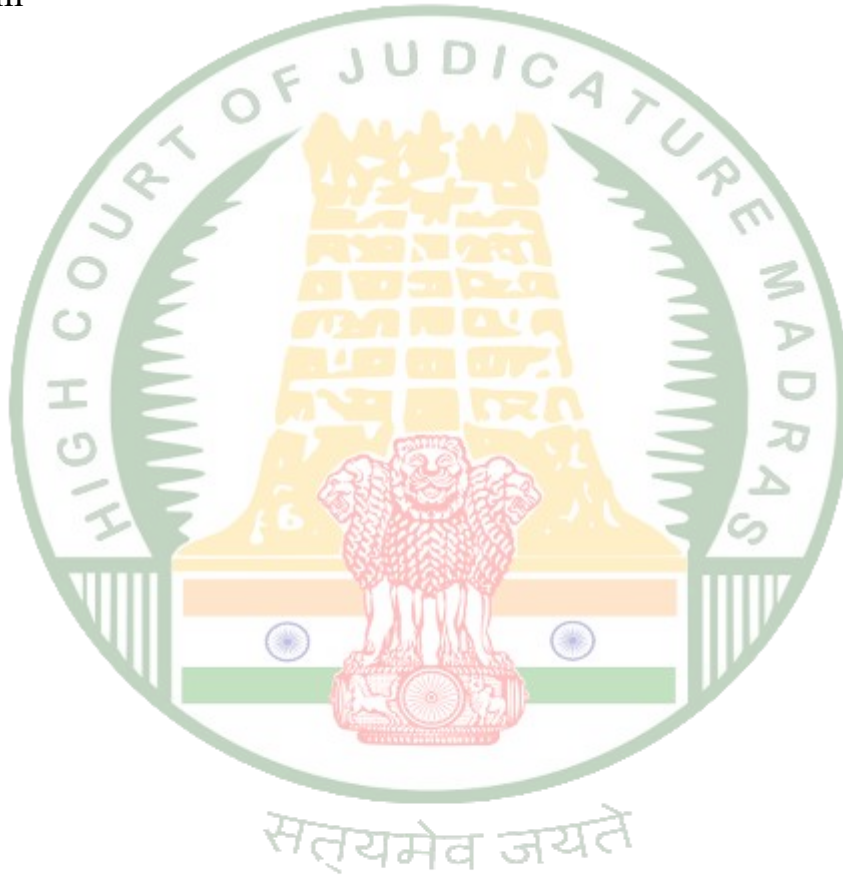
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Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

To:
The Sub-ordinate Court,
Rasipuram

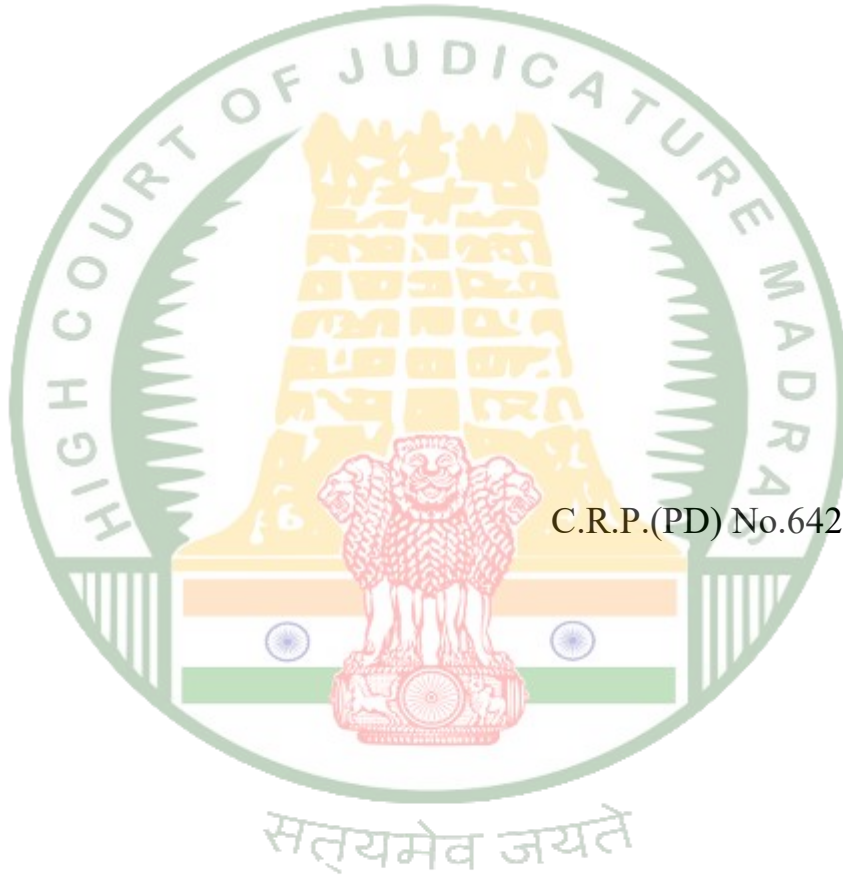


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V.BHAVANI SUBBAROYAN, J.,

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