



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

Thursday, the Second day of September Two Thousand and Twenty One

PRESENT

WEB COPY

The Hon'ble Mr.Justice V.BHARATHIDASAN
and
The Hon'ble Mrs.Justice S.ANANTHI

CMP(MD) No.2690 of 2021 IN
CMA(MD) No.140 of 2021

U.SANTHANASELVAM

... PETITIONER/1st RESPONDENT

Vs

1. ROYAL SUNDARAM GENERAL INSURANCE COMPANY LTD.
NO.176, D AND E, VANNARPETTAI, TIRUNELVELI,
REP. BY ITS BRANCH MANAGER. ... 1st RESPONDENT/APELLANT

2. J.SOLOMON ... 2nd RESPONDENT/2nd RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to permit the petitioner to withdraw 50% of the award amount in MCOP No.129 of 2017 dated 09.07.2019.

Prayer in CMA(MD) No.140/2021 :

Pleased to set aside the fair and decreetal order dated 09.07.2019 made in MCOP No.129 of 2017 on the file of the Motor Vehicles Accident Claims Tribunal Chief Judicial Magistrate Court, Thoothukudi and allow this appeal.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.G.THALAIMUTHARASU, Advocate for the petitioner and of Mr.M.JERIN METHREW, Advocate on behalf of the 1st Respondent, the court made the following order:-

(Order of the Court was made by **V.BHARATHIDASAN, J.**)

Against the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Thoothukudi, dated 09.07.2019, made in M.C.O.P.No.129 of 2017, the appellant/Insurance Company is before this Court with this appeal.

2. Earlier, this Court, by order dated 17.02.2021, directed the appellant/Insurance Company to deposit the entire award amount with accrued interests and costs to the credit of M.C.O.P.No.129 of 2017.



Pursuant to the same, the entire award amount has been deposited by the Insurance Company.

3. Now, the present Miscellaneous Petition has been filed by the petitioner/claimant seeking permission to withdraw 50% of the award amount deposited by the appellant/Insurance Company before the Tribunal.

4. The learned counsel appearing for the petitioner/claimant would submit that the petitioner is an Engineering Graduate and was working as a Supervisor in a Company. Due to the accident, his left leg was amputated below the hip and he was not able to discharge his duty. Therefore, he was terminated from service. Now, he is walking with an artificial leg and without any job, he is struggling for his livelihood. Hence, the petitioner may be permitted to withdraw 50% of the amount deposited by the Insurance Company.

5. The learned counsel appearing for the first respondent/Insurance Company opposing this application, would submit that due to the accident, only the left leg of the petitioner/claimant was amputated. Since the petitioner/claimant was working as a Supervisor, he can very well discharge his duties. The Tribunal without considering the same, fixed the loss of income at Rs.60,48,000/-. He would further submit that the appellant is having bright chance of success in this appeal. Therefore, if the petitioner is permitted to withdraw 50% of the award amount, much prejudice will be caused to the appellant/Insurance Company.

6. Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mr.M.Jerin Mathew, learned counsel for the first respondent/appellant.

7. Considering the fact that the left leg of the petitioner/claimant was amputated, he was terminated from service and is suffering for his livelihood, without prejudice to the rights and contentions raised by the appellant/Insurance Company in the main appeal, the petitioner is permitted to withdraw 50% of the amount deposited by the first respondent/appellant/Insurance Company.

8. The present Miscellaneous Petition is allowed accordingly.

sd/-
02/09/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

THE CHIEF JUDICIAL MAGISTRATE,
MOTOR ACCIDENT CLAIMS TRIBUNAL,
THOOTHUKUDI.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-5984[I] dated
06/09/2021

ORDER

IN

CMP (MD) No.2690 of 2021 IN

CMA (MD) No.140 of 2021

Date :02/09/2021

pm

USK/JM/SAR-II/08.09.2021/3P/3C