



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

Tuesday, the Twenty Ninth day of June Two Thousand and Twenty One

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PRESENT

The Hon'ble Mr. Justice K.KALYANASUNDARAM
and
The Hon'ble Mr. Justice B.PUGALENDHI

CMP(MD) No.4288 of 2021
IN
CMA(MD) No.276 of 2021

IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED,
REPRESENTED BY BRANCH MANAGER,
KALLUVEETIL CENTRE,
No.82, 3RD FLOOR, COURT ROAD,
NAGERCOIL, NAGERCOIL VILLAGE,
AGATEESWARAM TALUK,
KANNIYAKUMARI DISTRICT.

... PETITIONER/APPELLANT

Vs

1 M.KAVYA
[REP. BY NEXT FRIEND GUARDIAN
MATERNAL GRAND FATHER G.VIKRAMAN]

2 S.MURUGAN
3 P.KUPPUSWAMY

4 NATIONAL INSURANCE COMPANY LIMITED,
REPRESENTED BY BRANCH MANAGER,
KISHNAGIRI BRANCH,
THIRD FLOOR, ANURADDHA COMPLEX,
BANGLORE ROAD,
KRISHNAGIRI DISTRICT,
DHARMAPURAI, TAMILNADU.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to allow this application and:

A. Modify the order dated 10.03.2021 and remove the obligation imposed on the insurance company to deposit the half of the awarded amount in a nationalized bank and the permission to the claimant to withdraw the interest on the said deposit.



B. In the alternative, modify the order dated 10.03.2021 by making the withdrawal of the amount by the claimant/respondent conditional upon them furnishing a reasonable surety.

Prayer in CMA(MD)No.276/2021 :

To set aside the judgment and decree date 24th January, 2020 passed in M.C.O.P.No.182 of 2017 on the file of the Motor Accident Claims Tribunal Judge Cum Chief Judicial Magistrate of Nagercoil by allowing 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.V.SAKTHIVEL, Advocate for the petitioner and of Mr.T.SELVAKUMARAN, Caveator for 1st Respondent, Mr.A.S.MATHIALAGAN, Advocate for 4th Respondent and the Respondents 2 and 3 are not appeared either in person or by an Advocate, the Court made the following order:-

(Order of the Court was made by K.KALYANASUNDARAM., J)

This petition has been filed seeking modification of the order passed in C.M.P.(MD).No.2282 of 2021, dated 10.03.2021, wherein, a conditional order has been passed, directing the petitioner to deposit 50% of the award amount and permission was granted to the claimants to withdraw the interest thereon once in three months.

2. It is the submission of the learned counsel for the petitioner Mr.V.Sakthivel that the deceased was working as a Professor and she died in the accident. It is further contended that the quantum is on higher side and this may be a case of contributory negligence and hence, if the claimants withdraw the interest, the appellant will not be in a position to recover the said amount from them.

3. Per contra, the learned counsel appearing for the first respondent Mr.T.Selvakumaran would state that the award of the Tribunal is reasonable and the earlier order of this Court does not require any modification.

4. In the instant case, the deceased is the wife of the insured and the Tribunal has awarded total compensation of Rs.1,07,26,000/- with interest and the appeal has been preferred for Rs.1,25,17,852/-.

5. Considering the submission of the learned counsel for the petitioner, the order dated 10.03.2021 is modified, directing the petitioner to deposit Rs.50,00,000/- (Rupees Fifty Lakhs only) to the credit of M.C.O.P.No.182 of 2017, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagercoil, within a period of six weeks from the date of receipt of a copy of



this order. On such deposit, the first respondent is permitted to withdraw the accrued interest thereon once in three months.

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sd/-
29/06/2021

/ /2021

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

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

+1 CC to Mr.V.SAKTHIVEL, Advocate (SR-4199[I] dated 29/06/2021)
+1 CC to Mr.T.SELVA KUMARAN, Advocate (SR-4226[I] dated 29/06/2021)

ORDER
IN
CMP(MD) No.4288 of 2021 IN
CMA(MD)No.276 of 2021
Date :29/06/2021

AKV

TE/JC/SAR-I : 01/07/2021 : 3P/4C