



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

Thursday, the Seventh day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CMP (MD) No.8350 of 2021
IN
CMA (MD) No.315 of 2021

1 KRISHNAMOORTHY
2 CHIKKAMMAL
3 MINOR PRATHIBA
MINOR 3rd PETITIONER IS REP.BY HER
FATHER AND NEXT FRIEND KRISHNAMOORTHY
HEREIN 1st PETITIONER ... PETITIONERS/RESPONDENTS 1-3/
PETITIONERS

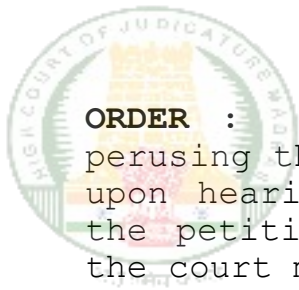
Vs

1 M/S.THE NEW INDIA ASSURANCE COMPANY LTD.,
REPRESENTED BY ITS BRANCH MANAGER,
NO. 43-A/2, BRANCH OFFICER,
PROMENADE ROAD,
CANTONMENT,
TRICHIRAPALLI DISTRICT ... 1st RESPONDENT/APPELLANT/2nd RESPONDENT
2 S.THANGAM ... 2nd RESPONDENT/4th RESPONDENT/1st RESPONDNET

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass necessary orders by allowing this petition and thereby permit the petitioners to withdraw 50% of the tribunal award amount with proportionate accrued interest and costs which was deposited by the 1st respondent in M.C.O.P.No. 739 of 2015 on the file of the Motor Accident Claims Tribunal/Special District Judge, Trichirappallie.

Prayer in CMA(MD) . 315/ 2021 :

Pleased to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Special District Judge, Tiruchirappalli in MCOP No.739 of 2015 dated 06th day of June, 2020.



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.N.SUDHAGAR NAGARAJ, Advocate for the petitioner and of Mr.D.SIVARAMAN, Advocate for 1st Respondent, the court made the following order:-

ORDER

WEB COPY

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

The petitioners have filed a claim petition in M.C.O.P.No.739 of 2015 on the file of the Motor Accident Claims Tribunal, Special District Judge, Trichy, seeking compensation of Rs.36,00,000/- for the death of son of the first and second petitioner and brother of the third petitioner. The Tribunal vide judgment dated 09.06.2021, awarded a sum of Rs.18,68,872/- as compensation. Challenging the same, the Insurance Company has filed the present appeal and pending appeal, this Court vide order dated 19.03.2021, directed the Insurance Company to deposit the entire award amount with accrued interest and costs. Pursuant to the same, the appellant/Insurance Company has also deposited the entire award amount.

2. Now, this Civil Miscellaneous Petition has been filed by the petitioners/claimants seeking to withdraw 50% of the award amount with accrued interest and costs, which was deposited by the first respondent/Insurance Company.

3. Mr.D.Sivaraman, learned counsel appearing for the first respondent/Insurance Company would vehemently contend that the deceased in an intoxicated mood, had driven the two-wheeler and caused the accident. That apart, a criminal case has also been registered against the deceased that he had driven the vehicle on the wrong side. In these circumstances, questioning the negligence, they have filed the present appeal and they have fair chance of succeeding the appeal and pending appeal, if the petitioners/claimants are permitted to withdraw the amount, it will put them in prejudice.

4. The learned counsel appearing for the claimants would submit that after considering the entire materials available on record, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the fourth respondent's vehicle. He would further submit that except the Accident Register showing alcohol smell, there is no other material to show that the deceased consumed alcohol. Considering all these facts, the Tribunal has fixed the negligence on the part of the driver of the fourth respondent's vehicle. He would further submit that the claimants are age old parents and minor sister of the deceased and they lost their sole bread winner and they are suffering to meet their day-to-day expenses and their livelihood is



in question. Hence, the claimants may be permitted to withdraw 50% of the award amount.

5. We have heard the rival submissions made and perused the materials carefully.

6. The Tribunal after considering all the materials, has held that the accident had taken place due to the rash and negligent driving of the driver of the fourth respondent's vehicle and that issue is to be decided in the present appeal. Now, it is stated that the deceased was the sole breadwinner of the family and the claimants are age old parents and minor sister. Considering those circumstances, the petitioners 1 & 2/Claimants 1 & 2, are permitted to withdraw 50% of award amount with accrued interests.

7. Post the appeal for final hearing on 22.11.2021.

sd/-

07/10/2021

/ TRUE COPY /

/ /2021

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

TO

THE SPECIAL DISTRICT JUDGE,
MOTOR ACCIDENT CLAIMS TRIBUNAL
TIRICHIRAPPALLI.

+1 cc to MR.N.SUDHAGAR NAGARAJ, Advocate, SR.No.7062

ORDER

IN

CMP (MD) No.8350 of 2021

IN

CMA (MD) No.315 of 2021

Date :07/10/2021

SA/VR/SAR.2/12.10.2021/3P/3C