



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

Friday, the Twenty Second day of October Two Thousand and Twenty One

PRESENT

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

CMP(MD) No.8678 of 2021
in
CMA(MD) No.305 of 2018

1 P.KESAVADHARINI

2 MINOR.P.BAGAVADSARAN
2ND PETITIONER MINOR REP
BY HIS NEXT FRIEND, MATERNAL
GRANDMORTHER 3RD PETITIONER
V.THAMARAI.

3 V.THAMARAI

4 N.M.KAMAN ... PETITIONERS/PETITIONERS/RESPONDENTS 1 TO 4

Vs

1 THE MANAGER
NATIONAL INSURANCE CO. LTD.,
HERO HONDA VERTICAL 101-106 BMC HOUSE CANNAUGHT PLACE
NEW DELHI ... 1st RESPONDENT/APPELLANT/3rd RESPONDENT

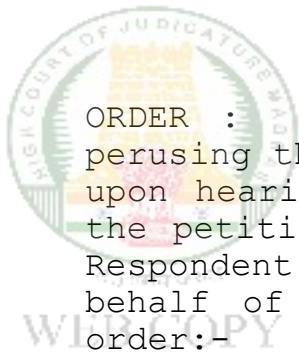
2 T.PALANIVEL ... 2nd RESPONDENT/5th RESPONDENT/1st RESPONDENT

3 G.MUTHURAJA ... 3rd RESPONDENT/6th 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 petitioners to withdraw 50% of the tribunal award amount with proportionate accrued interest and costs which was deposited by the 1st respondent in MCOP.No.353 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Court Karur.

PRAYER IN CMA(MD) No.305 OF 2018:

Pleased to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Principal District Court, Karur MCOP No.353 of 2013 dated 03.10.2016.



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 M/S.N.SUDHAGAR NAGARAJ, Advocate for the petitioner and of Mr.D.SIVARAMAN, Advocate on behalf of the 1st Respondent and none appeared either in person or by an Advocate on behalf of the respondents 2 to 3, the Court made the following order:-

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

Challenging the award passed by the Motor Accidents Claims Tribunal, Karur, the insurance company has filed this appeal.

2.Earlier, this Court, by order, dated 26.04.2018, has admitted the appeal and granted interim stay, on condition to deposit the entire award amount, by order in CMP(MD)No.4167 of 2018 and pursuant to the same, the award amount has been deposited by the appellant. Now, to withdraw 50% of the award amount, the respondents/claimants are before this Court with this petition.

3.Mr.Sivaraman, learned counsel for the appellant, submitted that it is a case, in which, four persons travelled in a two wheeler and the husband of the deceased was the rider of the two wheeler and his wife, who travelled as fourth person, is the deceased and the Tribunal has wrongly fixed entire negligence on the part of the rider of the two wheeler, without considering the plea of contributory negligence, when both the rider as well as the deceased, have contributed to the accident. Apart from that, only the first claimant/daughter of the deceased, has become major and the second claimant/son of the deceased, is still a minor and he cannot be permitted to withdraw the amount. Sofaras the claimants 3 and 4/grandparents of claimants 1 and 2, the Tribunal has awarded Rs.1,00,000/- each.

4.The learned counsel for the claimants submitted that now, the first claimant, daughter of the deceased has become major, for higher studies, the amount is required and she may be permitted to withdraw 50% of the amount.

5.We have considered the rival submissions and perused the records.

6.Considering the fact that the appellant has no serious objection for withdrawal of 50% of the award amount, we are inclined to permit the first petitioner/first claimant to withdraw a sum of Rs.14,00,000/- along with accrued interest and the second petitioner/minor claimant cannot be permitted to withdraw the amount, till he attains majority. Sofaras the petitioners 3 and 4 are concerned, they are permitted to withdraw 50% of their respective shares, along with proportionate interest. The Tribunal is directed to deposit the remaining amount, including the minor's share, in a Fixed Deposit, initially, for a period of two years.



7. Post the appeal for hearing on 23.11.2021.

sd/-

22/10/2021

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/ /2021

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

TO

THE PRINCIPAL DISTRICT JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL, KARUR.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-7333[I] dated 22/10/2021)

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-7355[I] dated
25/10/2021)

ORDER

IN

CMP(MD) No.8678 of 2021

in

CMA(MD) No.305 of 2018

Date :22/10/2021

SS/JC/SAR-IV/26.11.2021 : 3P/4C