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C.R.P.(NPD)No.1372 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.1372 of 2016
and C.M.P.No.7653 of 2016

M/s.The New India Assurance
Company Limited
Motor III party claims office
No.45, Moore street
Chennai-600 001.

.. Petitioner

Vs.

1.Mekala
2.M.Malathi

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 26.02.2016 made in E.P.No.46 of 2015 in M.C.O.P.No.318 of 2005 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Poonamallee.

For Petitioner : Mrs.R.Sree Vidhya
For R1 : Ms.Ramya S.
for Mr.J.Mahalingam

ORDER



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(The matter is heard through “Video-conferencing”)

The Civil Revision Petition is filed by the Insurance Company challenging the order dated 26.02.2016 made in E.P.No.46 of 2015 in M.C.O.P.No.318 of 2005 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Poonamallee, directing the petitioner/Insurance Company to pay a sum of Rs.5,87,081.50 to the 1st respondent/claimant.

2.The learned counsel appearing for the petitioner/Insurance Company contended that the order passed by the learned Judge is non-speaking order and the Tribunal has not given any calculation and reason based on which, a sum of Rs.5,87,081.50 was arrived. The petitioner deposited various amounts as per the award of the Tribunal as well as the order of this Court. The amounts so deposited must be given credit to either principal amount or counter-interest awarded for the amount deposited by the petitioner/Insurance Company and prayed for setting aside the order of the Executing Court and for allowing the Civil



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Revision Petition.

3.Per contra, the learned counsel appearing for the 1st respondent contended that the learned Judge considering the award of the Tribunal, the judgments of this Court as well as the Hon'ble Apex Court, passed order directing the petitioner/Insurance Company to pay the balance amount awarded, which is in order and valid. There is no error in the said order of the learned Judge and prayed for dismissal of the Civil Revision Petition.

4.The 2nd respondent, owner of the vehicle remained exparte before the Tribunal and hence, notice to the 2nd respondent is dispensed with.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 1st respondent and perused the entire materials on record.

6.From the materials on record, it is seen that based on the claim of



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the respondents in M.C.O.P., finally a sum of Rs.30,93,000/- together with interest at 9% per annum was awarded by the Hon'ble Apex Court to the 1st respondent by the order dated 25.04.2014. Pending C.M.A. and S.L.P., the petitioner has deposited the following amounts on the dates mentioned therein:

<i>Date</i>	<i>Amount</i>
13.07.2007	Rs.7,45,778.00
08.01.2013	Rs.15,95,966.00

The petitioner/Insurance Company calculated interest at the rate of 9% per annum on Rs.30,93,000/- (compensation awarded by the Hon'ble Supreme Court) up to the last date of deposit by the petitioner, added the same to the principal amount and deducted the amounts deposited by the petitioner from the total amount. The 1st respondent also calculated in similar manner and arrived at Rs.5,40,002.50 payable by the petitioner. However, in E.P.No.46 of 2015, the 1st respondent has claimed a sum of Rs.8,77,435.88 as balance amount payable to her by the petitioner/Insurance Company.

7.From the order of the learned Judge, it is seen that the learned



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Judge has not given any details as to how he has arrived Rs.5,87,081.50.

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In view of non-speaking order, the impugned order of the learned Judge dated 26.02.2016 made in E.P.No.46 of 2015 in M.C.O.P.No.318 of 2005 is liable to be set aside and is hereby set aside. The said E.P. is remanded to the Executing Court for fresh consideration. It is open to the petitioner and respondents to file memo of calculation before the Executing Court.

8.With the above directions, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.01.2022

Index : Yes/No
Internet: Yes/No
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V.M.VELUMANI,J.

Kj

To

III Additional District and Sessions Judge
Motor Accident Claims Tribunal
Poonamallee.

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