



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

Wednesday, the Second day of March Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice RMT.TEEKAA RAMAN

CMP(MD) No.9163 of 2021

IN

CMA(MD) No.896 of 2019

R.MANIJOTHI

... PETITIONER/ 1st RESPONDENT

Vs

1 NATIONAL INSURANCE COMPANY LTD,
REPRESENTED BY ITS BRANCH MANAGER,
NO.6, FIRST FLOOR,
WEST MASI STREET, MADURAI.

... 1st RESPONDENT / APPELLANT

2 C.MUTHUKARUPPAN

... 2nd RESPONDENT / 2nd RESPONDENT

3 C.MURUGESWARI

... 3rd RESPONDENT / 3rd 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 percentage of the Award Amount deposited on 28.02.2020 in the credit of MCOP No.1253 of 2015 on the file of the Motor Accident Claim Tribunal/Special Subordinate Court, Madurai District along with accrued interest.

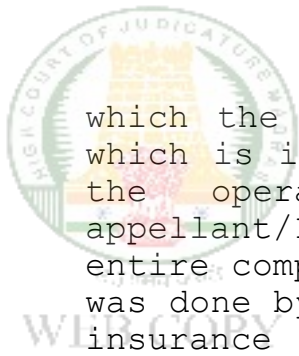
Prayer in CMA(MD). 896/ 2019 :

To set aside the judgment and decree made in MCOP No.1253 of 2015 dated 03.07.2019 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Madurai and allow the appeal with costs.

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.SRIRAM, Advocate for the petitioner and of MR.J.S.MURALI, on behalf of the 1st Respondent, the court made the following order:-

This petition is filed by the claimant to withdraw 50% of the award amount deposited on 28.02.2020 in the credit of MCOP No.1253 of 2015 on the file of the Motor Accident Claim Tribunal/Special Subordinate Court, Madurai District along with accrued interest.

2.The trial Court had rendered the finding that the accident
<https://hse.mca.gov.in/service/> due to the composite negligence of the vehicle in



which the injured was travelled as well as the offending vehicle, which is insured with the appellant/Insurance Company. However, in the operative portion, a direction was issued to the appellant/Insurance company of the offending vehicle to pay the entire compensation and there cannot be any such inconsistency as it was done by learned Special Sub Judge Madurai, in the absence of any insurance policy. Now in the civil miscellaneous petition, the petitioner wants to withdraw the 50% of the award amount.

3.This Court, by a conditional order dated 10.12.2019, directed the Insurance Company to deposit 50% of the award amount as per the finding of the Tribunal at Paragraph No.6. It is to be noted that the operative portion mentioned in Paragraph No.9 is unsustainable in law. In view of the quantum is being questioned, the petitioner is entitled to withdraw 25% of the award amount namely 50% of the amount deposited by the appellant. Accordingly, this civil miscellaneous petition is allowed.

sd/-
02/03/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE SPECIAL SUBORDINATE JUDGE,
MOTOR ACCIDENTS CLAIMS TRIBUNAL, MADURAI.

+1 CC to Mr.J.S.MURALI, Advocate (SR-1662[I] dated 03/03/2022)

ORDER
IN
CMP (MD) No.9163 of 2021
IN
CMA (MD) No.896 of 2019
Date :02/03/2022

MK/VR/SAR.I/15.03.2022/2P/3C