



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

Wednesday, the Twenty Ninth day of June Two Thousand and Twenty Two

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PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
and
The Hon`ble Mrs.Justice S.SRIMATHY

C.M.P(MD)No.8467 of 2019
and C.M.P(MD)No.852 of 2019
in
C.M.A.(MD) No.83 of 2019

IN C.M.P(MD)No.8467 of 2019

1 KALA

2 DEEPIKA

3 ARAVIND ... PETITIONERS/RESPONDENTS 1,2 & 4

Vs

1 THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO.LTD., EAST COAST
CHAMBERS, 92, G.N.CHETTY ROAD, T.NAGAR,
CHENNAI - 17.

2 MOWNIKA

3 M.JEYA

4 SATHIYAVANI

5 CHOLAMANDALAM M.S.GENERAL INSURANCE COMPANY LTD.,,
DINDIGUL MAIN ROAD,
SRI ENT HOSPITAL, KEELAVASAL,
MADURAI 625010.

... RESPONDENTS/APELLANT,
RESPONDENT 2,3 TO 5 &
3RD RESPONDENT

IN C.M.P(MD)No.852 of 2019:

1 THE BRANCH MANAGER,
NEW INDIA ASSURANCE CO.LTD., EAST COAST CHAMBERS,
92, G.N.CHETTY ROAD, T.NAGAR,
CHENNAI-17.

... PETITIONER/APELLANT



1 KALA

2 DEEPIKA

3 MOWNIKA

(*) 4 ARAVIND

5 M.JEYA

6 SATHIYAVANI

7 CHOLAMANDALAM M.S.GENERAL INSURANCE CO.LTD.,
DINDIGUL MAIN ROAD, SRI ENT HOSPITAL,
KEELAVASAL, MADURAI-625 010.

...RESPONDENTS/RESPONDENTS

(*)Minor 4th respondent is declared as major and guardianship of his mother(R1) is discharged vide court order dated 16/07/2021 made in CMP (MD)No.6329/2020 in CMA(MD) No.83/2019.

PRAYER IN C.M.P(MD)No.8467 of 2019:

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 half of the amount lying in court-deposit in MCOP.No.721 of 2014 on the file of the Motor Accidents Claims Tribunal (Additional District and Special Court, Pudukkottai), Pudukkottai pending disposal of Civil Miscellaneous Appeal.

Prayer in CMP(MD). 852/ 2019 in CMA(MD)No.83/2019 :

To grant interim stay of all further proceedings pursuant to the order made in MCOP No.721 of 2014 dated 29.06.2018 on the file of the MACT, Additional District and Special Court, Pudukkottai, pending disposal of the appeal.

Prayer in CMA(MD)No.83/2019 :

To set aside the fair and decreetal order in M.C.O.P.No.721 of 2014 dated 29.06.2018 on the file of the Motor Accidents Claims Tribunal, Additional District and Special Court, Pudukkottai and allow the appeal with costs.

ORDER : Thees petitions coming up for orders on this day, upon perusing the petitions and the affidavit filed in support thereof and upon hearing the arguments of M/S.P.GANAPATHI SUBRAMANIAN, Advocate for the petitioners in C.M.P(MD)No.8467 of 2019 and of M/S.J.S.MURALI, Advocate on behalf of the Respondent No.1 in C.M.P (MD)No.8467 of 2019 and for Petitioner in C.M.P(MD)No.852 of 2019 the court made the following order:-



[Order of the Court made by **S.S.SUNDAR, J.**]

This petition is filed to permit the petitioners to withdraw half of the amount lying in court-deposit in M.C.O.P. No.721 of 2014 on the file of the Motor Accidents Claims Tribunal (Additional District and Special Court), Pudukkottai, pending disposal of the above appeal.

2.Heard Mr.P.Ganapathi Subramanian, learned counsel for the petitioners and Mr.J.S.Murali, learned counsel for the first respondent.

3.The petitioners are respondents 1, 2 and 4 in the appeal. The appeal is preferred by the Insurance Company, who is the second respondent before the Motor Accident Claims Tribunal as against the award of Rs.29,94,104/- with a direction to the Insurance Company to pay the compensation. It is submitted that the entire amount awarded by the Tribunal has been deposited.

4.Though this application is normally entertained, learned counsel for the appellant/Insurance Company not only questioned the quantum but also the negligence. Learned counsel for the first respondent/appellant submitted that the Tribunal has relied on the verdict in the Criminal proceedings to hold that the driver of the vehicle insured with the insurance company is negligent.

5.The Tribunal has meticulously discussed the evidence. However, we are not expressing any opinion on that. In respect of the claim that the quantum is on the higher side, this Court is unable to find any reason to reduce the compensation to 50% of the amount that was awarded by the Tribunal. Hence, C.M.P.(MD) No.8467 of 2019 is ordered and the petitioners are permitted to withdraw 50% of their respective shares in the amount lying in Court deposit in M.C.O.P.No.721 of 2014 on the file of the Motor Accidents Claims Tribunal (Additional District and Special Court), Pudukkottai.

6.The interim stay already granted in C.M.P.(MD) No.852 of 2019 is made absolute.

sd/-

29/06/2022

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/07/2022

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



C.M.P(MD)



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TO

THE ADDITIONAL DISTRICT AND SPECIAL JUDGE,
(MOTOR ACCIDENTS CLAIMS TRIBUNAL),
PUDUKKOTTAI.

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ORDER

IN

C.M.P (MD) No.8467 of 2019
and C.M.P (MD) No.852 of 2019
in

C.M.A. (MD) No.83 of 2019

Date :29/06/2022

RK/PN/SAR-II/04.07.2022 : 6P/2C