



CRP(PD)(MD)Nos.2180 & 2181 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)Nos.2180 & 2181 of 2022

D.Sharmila

... Petitioner in
CRP(PD)(MD)No.2180 of 2022

Srinivasan

... Petitioner in
CRP(PD)(MD)No.2181 of 2022

Vs

1.Manikandan
2.The Regional Manager,
The National Insurance Company Ltd,
Office at Manojiappa Veethi,
South Main Street,
Thanjavur.

... Respondents
in both CRPs

Common Prayer : Petitions filed under Article 227 of the Constitution of India, to set aside the order passed by the Motor Accident Claims Tribunal-cum-Special District Court, Thanjavur, dated nil in unnumbered interlocutory application in MCOP No.894 of 2017.



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For Petitioner : Mr.R.J.Karthick
(In both CRPs)

COMMON ORDER

These Civil Revision Petitions are filed as against the docket order of return passed by the learned Judge, Motor Accident Claims Tribunal-cum-Special District Court, Thanjavur in unnumbered I.A.No. in M.C.O.P No.894 of 2017.

2.The petitioners are the father and wife of the deceased Sivaprakasam. Originally, the claim petition in M.C.O.P.No.894 of 2017 was filed by the mother of the deceased Sivaprakasam, seeking compensation of Rs.1,50,00,000/- from the respondents for his grievous injuries sustained in an accident that took place on 16.04.2015. At the time of filing the petition, the said Sivaprakasam was alive and on his behalf, his mother has filed the claim petition, before the Motor Accident Claims Tribunal-cum-Special District Court, Thanjavur. The Tribunal has awarded a sum of Rs.38,41,989/-



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as compensation with interest at the rate of 7.5% from the date of petition till the date of realization, by its order dated 19.09.2018. As against the award, the respondent/Insurance company and the claimant have preferred appeals before this Court in CMA(MD) Nos.109 of 2019 and 185 of 2019. Those CMAs were referred to Lok Adalat conducted on 12.03.2022 by the High Court Legal Services Committee, Madurai and an award was also passed on 12.03.2022 for a sum of Rs.36,00,000/- as per the following terms.

"10.The legal heirs are father and wife. Both parties are present. The Tribunal awarded a sum of Rs.38,41,989/-. Now, both the parties agreed to arrive at a settlement for a sum of Rs.36,00,000/- with interest. Each legal heirs of the claimant are entitled to withdraw 50% of the award amount with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of realization. The trial Court had awarded compensation and directed the Insurance Company to pay the same and to recover the same from the owner of the vehicle."



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3.The learned counsel appearing for the revision petitioners submits that the claimant/the mother of the injured Sivaprakasam died on 04.06.2019 and subsequently the injured Sivaprakasam also died on 08.06.2020. Hence, the wife and the father of the deceased Sivaprakasam, who are the legal heirs have filed applications before the Tribunal, under Section 160 & 162 of Civil Rules of Practice to transmit the award amount to the petitioners as apportioned by the Tribunal and the same was returned by the Tribunal that as per the award, the petitioners were permitted to withdraw 50% of the award amount alone. Aggrieved over the same, the present Civil Revision Petitions are filed.

4.This Court considered the submissions of the learned counsel for the petitioners and perused the materials placed before this Court.



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5. Perusal of the records shows that the award amount of Rs.38,41,989/- granted by the trial Court has been reduced to Rs.36,00,000/- with interest @ 7.5% per annum, before the Lok Adalat on 12.03.2022 and as per the award, each legal heir of the deceased Sivaprakasam was permitted to withdraw 50% of the award amount with accrued interest from the date of filing of the petition till the date of realization. However, the Tribunal has returned the application under the impression that 50% of the award amount alone was allowed to be withdrawn.

6. In view of the above, the return endorsement made by the Tribunal is set aside. The learned Judge, Motor Accidents Claim Tribunal cum Special District Court, Thanjavur is directed to entertain the application filed by the petitioners and shall pass necessary order. Registry is directed to return the original impugned order to the petitioners after getting proper acknowledgment.



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7. Accordingly, these Civil Revision Petitions are allowed.

No costs.

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Index : Yes / No.

Internet : Yes / No.

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To

The Motor Accident Claims Tribunal-cum-Special District Court,
Thanjavur.



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B.PUGALENDHI, J.

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Common Order made in
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