



W.P.(MD)No.1140 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1140 of 2023

and

W.M.P(MD) No.1058 of 2023

Royal Sundaram General Insurance Company Ltd.,
Rep. by the Assistant Manager,
Branch Office, ATP Towers,
12-A, 5th Floor,
Bye Pass Road,
Madurai - 625 010.

: Petitioner

Vs.

1.The Commissioner for Employees Compensation,
(Joint Commissioner of Labour),
Madurai.

2.R.Mariammal

3.Minor R.Kaleeswaran

4.Minor R.Ajai
(Minor respondents 3 and 4 rep. by their Guardian
Mother - 2nd respondent)



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5.R.Nagammal

6.K.Ruthrakalathi

: Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the first respondent in Ka.Mu.A40/2022, dated 4.11.2022 and the consequential impugned proceedings of first respondent in Ka.Mu.A40/2022 dated 15.12.2022 returning the cheque No.077070 dated 31.10.2022 drawn on HDFC Bank Anna Salai, Chennai - 2 in the name of first respondent quash the same and consequently direct the first respondent to issue necessary Certificate for deposit of payment of compensation by accepting the cheque No.077070 dated 31.10.2022 drawn on HDFC Bank, Anna Salai, Chennai-2, in the name of first respondent for Rs.9,22,500/- towards compensation and interest accrued thereon.

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : Mr.C.Satheesh - for R1
Government Advocate



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ORDER

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This writ petition has been filed to quash the impugned proceedings of the first respondent in Ka.Mu.A40/2022, dated 04.11.2022 and the consequential impugned proceedings of first respondent in Ka.Mu.A40/2022 dated 15.12.2022 returning the cheque No.077070, dated 31.10.2022 drawn on HDFC Bank, Anna Salai, Chennai - 2, in the name of first respondent and consequently direct the first respondent to issue necessary Certificate for deposit of payment of compensation by accepting the cheque No.077070, dated 31.10.2022 drawn on HDFC Bank, Anna Salai, Chennai, in the name of the first respondent for Rs.9,22,500/- (Rupees Nine Lakhs Twenty Two Thousand and Five Hundred only) towards compensation and interest accrued thereon.

2. Though the private respondents are arrayed as party respondents, however, no adverse order is going to be passed as against the private respondents and hence, the notice to the private respondents is dispensed with.



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3. The learned counsel appearing for the petitioner submitted that the petitioner Insurance Company has arrayed as second respondent in the claim petition in E.C.No.96 of 2020 filed by the private respondents and contested the claim on the file of the first respondent and the first respondent had passed an award on 24.08.2022 for a sum of Rs.6,95,080/- (Rupees Six Lakhs Ninety Five Thousand and Eighty only) and the same was served on the petitioner only on 21.09.2022. Thereafter, the petitioner deposited the award amount together with interest from the date of accident i.e., 18.04.2019 till the date of realization and as such, deposited the sum of Rs.9,22,500/- (Rupees Nine Lakhs Twenty Two Thousand and Five Hundred only) before the first respondent vide cheque No.077070, dated 31.10.2022 along with Deposit Memo, dated 04.11.2022. However, the first respondent refused to accept the deposit on the ground that the petitioner has no right to deduct the TDS amount. Challenging the same, the present writ petition is filed.



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4. The learned counsel for the petitioner further submitted that the issue with regard to the deduction of income tax from the compensation amount has already been decided by the Division Bench of this Court and the same was referred to the Division Bench of this Court and till disposal of the same, duty cast upon the petitioner company to deduct the TDS amount from the compensation amount. However, in order to resolve the dispute, the petitioner already deposited the TDS amount to the Income Tax Department and this Court may issue a direction to the first respondent to receive and disburse the compensation amount, except TDS amount and the said TDS amount will be paid, after Division Bench decision and liberty may be granted to the succeeding party to file appropriate petition for disbursement of the TDS amount, thereafter.

5. The learned Government Advocate appearing for the first respondent has no serious objection.

6. Heard the learned counsel appearing on either side and perused the materials available on record.



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7. Considering the fair submission made by the learned counsel for the petitioner, this Court is inclined to issue the following directions :

i) The petitioner is directed to resubmit the cheque amount of Rs.9,22,500/- (Rupees Nine Lakhs Twenty Two Thousand and Five Hundred only) before the first respondent within a period of two weeks from the date of receipt of a copy of this order;

ii) On such deposit, the first respondent is directed to disburse the entire compensation amount, except the TDS amount, within a period of four weeks thereafter;

iii) The petitioner is directed to file an undertaking affidavit before the Deputy Commissioner of Labour. If it is held in favour of the victim, the TDS amount will be deposited in the name of the victim, after the decision of the Division Bench, liberty is granted to the succeeding party to



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file an appropriate petition for disbursement of the
TDS amount.

8. With the above directions, this writ petition is disposed of. No
costs. Consequently, connected miscellaneous petition is closed.

23.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

1.The Commissioner for Employees Compensation,
(Joint Commissioner of Labour),
Madurai.



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M.DHANDAPANI, J.

RM

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