



CMP(MD) No.2802 of 2023

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

Wednesday, the Twelfth day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Dr.Justice ANITA SUMANTH
and
The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMP(MD) No.2802 of 2023
in
CMA(MD)No. 489 of 2020

1 J.DURGADEVI

2 MINOR. J. KANISHKA

3 MINOR. J. VARSHINI, ...PETITIONERS/RESPONDENTS 1 TO 3
(MINOR 2ND AND 3RD PETITIONERS
REPRESENTED BY MOTHER & GUARDIAN 1st
PETITIONER J.DURGADEVI)

Vs

1 M/S.HDFC ERGO GENERAL INSURANCE COMPANY LIMITED,,
4TH FLOOR, RAJANARAYANAN TOWER,
NO.70, RACE COURSE ROAD,
COIMBATORE ..1st RESPONDENT/ APPELLANT

2 A. SARAVANAPRABHU, ...2nd RESPONDENT/4th RESPONDENT

(SINCE THE 2ND RESPONDENT IS NOT NECESSARY PARTY
AND HENCE THEY MAY BE GIVEN UP)

Petition filed praying that in the circumstances stated therein and in the
affidavit filed therewith the High Court may be pleased to permit me TO

<https://www.mhc.tn.gov.in/judis>



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WITHDRAW the award amount which was deposited by the 1st respondent to the credit of M.C.O.P. No. 298 of 2016 on the file of the Motor Accidents Claims Tribunal - (Principal District Judge), Karur.

Prayer in CMA(MD). 489/ 2020 :

Pleased to allow the appeal, set aside the decree and judgment of the Motor Accidents Claims Tribunal - Principal District Judge Karur dated 24.09.2018 in M.C.O.P.No.298/2016.

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.L.PRABAKARAN, Advocate for MR K.BALASUBRAMANI, Advocate for the petitioner and of MR.N.SHYLLAPPAKALYAN, Advocate on behalf of the 1st Respondent, the court made the following order:-

(Order of the Court was made by DR.ANITA SUMANTH, J.)

This Civil Miscellaneous Petition has been filed by the respondents in the appeal seeking withdrawal of 50% of the amount that has been deposited by the Insurance Company under an interim order of this Court on 27.01.2021 reading as follows:

“Notice to the respondents returnable on 24.02.2021. Private notice is also permitted.

2. There shall be an order of stay on condition that the interim petitioner/appellant deposits 50% of the award amount with proportionate interest and costs to the credit of M.C.O.P.No.298 of 2016, on the file of the Motor Accidents Claims Tribunal (Principal District Court), Karur, on or before 24.02.2021, failing which, interim stay



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granted shall stand automatically vacated without further reference to this Court.

3. On such deposit being made, the Tribunal is directed to transfer the said amount to the credit of C.M.A.No.489 of 2020, before the Indian Bank, Madurai Bench of Madras High Court, Madurai, which amount shall be deposited by the Indian Bank, in a fixed deposit, initially for a period of one year and renewable thereafter, till the disposal of the appeal.”

2. The appeal has been filed by the Insurance Company challenging the quantification of the amount and the argument advanced against the prayer for withdrawal is that the quantification of the salary of the deceased has been based on a certificate given by the employer, a Star Hotel on its Letterhead. No specific lacuna is set out in the certificate itself, except a general assertion that amount seems to be on the higher side.

3. Prima facie, we do not find justification in the argument, as no evidence has been produced to disprove the quantification of the salary per the certificate filed.

4. For the aforesaid reasons, this Court accedes to the prayer in this interim application and permits the petitioners to withdraw the amount as deposited in entirety. The apportionment shall be as follows:



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(i) The first petitioner be entitled to withdraw 40% of the award along with interest as on date of withdrawal;

(ii) Respondents 2 and 3, being minor children be entitled to 25% of the award each, which shall be deposited in a Nationalised Bank in a fixed deposit interest bearing account.

(ii) It is made clear that 10% of the remaining deposit shall remain deposited to the credit of M.C.O.P.No.298 of 2016 as per the order dated 27.01.2021.

5. The petitioners may appear before the tribunal with necessary documentation to enable withdrawal of the amount deposited. This Civil Miscellaneous Petition is allowed accordingly.

6. Since there appears to be some errors in para 8 of award (interim page 5 and 6) and the decree dated 24.09.2018, the appellant insurance company is permitted to approach the Tribunal seeking suitable rectification of the same.

7. List on 12.09.2023.

sd/-
12/07/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO
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THE PRINCIPAL DISTRICT JUDGE
MOTOR ACCIDENT CLAIMS TRIBUNAL, KARUR.

+1 CC to M/s.K.BALASUBRAMANI, Advocate (SR-10682[I] dated 13/07/2023

ORDER
IN
CMP(MD) No.2802 of 2023
in
CMA(MD)No. 489 of 2020

Date :12/07/2023

PKP/MMS/SAR- /31.07.2023/ 5P/ 3C

Madurai Bench of Madras High Court is issuing certified
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