



C.M.P.(MD)No.6046 of 2021

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

Thursday, the Fourteenth day of September Two Thousand and Twenty Three

PRESENT

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

C.M.P.(MD)No.6046 of 2021
in
C.M.A.(MD)No.240 of 2021

1 KAVITHA

2 MINOR. NITHISH

3 MINOR. VIKASH

4 PAULTHAI

... PETITIONERS/RESPONDENT NO.1 TO 4

Vs

1 THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY,
MANO COMPLEX,
KUMARAIAH KOVIL OPPOSITE RAMANATHAPURAM TOWN
RAMANATHAPURAM TALUK AND DISTRICT.

...RESPONDENT/ APPELLANT

2 RAMAIAH

... RESPONDENT/RESPONDNET NO.2

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

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



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withdraw the deposited amount into the credit of M.C.O.P.No. 102/2015, on the the file of the Motor Accident Claims Tribunal / Fast Track Court, Ramanathapuram, pending disposal of C.M.A.No. 240 of 2021 on the file of this Honourable Court and thus render justice.

Prayer in CMA(MD). 240/ 2021 :

To set aside the Judgment and Decree dated 01.09.17 passed in MCOP No.102 of 2015 on the file of the Honourable MotorAccidents Claims Tribunal, (Additional District Judge), Ramanathapuram and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of this case and render Justice.

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.MOHAMMED HUSSAIN, Advocate for M/S.J.M.HASSANUL BAZARI, Advocate for the petitioners 1 to 3 and of MR.I.ROBERT CHANDRAKUMAR, Advocate on behalf of the Respondent No.1 and not appeared for the respondent No.2 either in person or through by an advocate, the court made the following order:-

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

Heard the learned counsel. No appearance for the fourth petitioner.

2. This is a petition for withdrawal on the deposit made by the Insurance Company. The total claim awarded by the Motor Accident Claims Tribunal (Additional District Judge), Ramanathapuram is a sum of Rs.44,25,000/- along with interest amounting to Rs.51,52,400/- and the entirety of the claim has been disputed by the Insurance Company.



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3. At the time of admission on 05.03.2021, there was an order of interim stay upon condition that 50% of the award along with proportionate interest and costs be deposited to the credit of MCOP No.102 of 2015 on the file of the Motor Accident Claims Tribunal (Additional District Court), Ramanathapuram. That order has been duly complied.

4. The petitioners are the wife, two children and mother of the victim, who was driving the two wheeler, which crashed into the lorry. Negligence has been fully attributed to the driver of the lorry and the operative portion of the award is at para 5 internal page 4 of the order of the Tribunal.

5. The complainant, (P.W.2) who was bike stander, an eye-witness to the accident has deposed categorically that it was the lorry that had stopped mid-road without any signal whatsoever, leading to the accident.

6. The Insurance Company has not been able to dispute the evidence of P.W.2 and nothing is placed before us to indicate that the victim had not maintained a safe distance between his vehicle and the lorry. Records also do not, prima facie, indicate



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this. Reliance on the judgment of the Hon'ble Supreme Court in the case of Nishan Singh and others vs. Oriental Insurance Co. Ltd. (2018 (1) TN MAC 745 (SC)) is thus not of any support to the Insurance Company on this aspect.

7. The petitioners are permitted to withdraw 50% of the amount so deposited with proportionate interest and costs in the same proportion as apportioned by the Tribunal. The shares of the minors shall be retained in a fixed deposit and their mother, the first petitioner, is permitted to withdraw the interest alone in respect of the shares of the minor children.

8. Let the parties appear before the tribunal with necessary documentation to facilitate implementation of this order. This Civil Miscellaneous Petition is allowed accordingly.

sd/-
14/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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THE MOTORACCIDENTS CLAIMS TRIBUNAL,
(ADDITIONAL DISTRICT JUDGE), RAMANATHAPURAM.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-13717[I] dated 15/09/2023)

ORDER
IN
C.M.P.(MD)No.6046 of 2021
in
C.M.A.(MD)No.240 of 2021
Date :14/09/2023

RK/VRS (19/09/2023) 5P / 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023