



CMP(MD) No.8233 of 2023

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

Wednesday, the Twenty Sixth 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.8233 of 2023
in
CMA(MD) No.243 of 2019

RADHAKRISHNAN, ... PETITIONER/3RD RESPONDENT/PETITIONER

Vs

1 THE NEW INDIA INSURANCE COMPANY LIMITED,
REPRESENTED BY ITS BRANCH MANAGER,
480, SEKKALAI ROAD, KARIKUDI TALUK,
SIVAGANGAI DISTRICT ... 1ST RESPONDENT/APPELLANT/RESPONDENT 2

2 LATHA

3 GOWTHAM

4 MINOR KALISARAN
(REPRESENTED BY HIS MOTHER & NATURAL
GUARDIAN LATHA)
... RESPONDENTS/RESPONDENTS/PETITIONER 1,2,4

5 SETHUSELVAM
(5TH RESPONDENT SET EXPARTY IN H/C AND
TRIBUNAL)

... 5TH RESPONDENT/5TH RESPONDENT/1ST RESPONDENT



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Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass necessary orders by allowing this petition and thereby permit the petitioner to withdraw a sum of Rs.5,00,000/- the deposited award amount together with proportionate interest and costs which was deposited by the 1st respondent in MCOP No.271 of 2016 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate court Sivagangai).

PRAYER IN CMA(MD).243/2019 :

To set aside the judgment and decree in M.C.O.P.No.271 of 2016 dated 11.08.2018 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Sivagangai and allow the appeal with costs.

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 M/S.A.SHAJAHAN, Advocate for the petitioner and of MR.J.S.MURALI, 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 third claimant in the claim petition before the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Sivagangai.

2. The petitioner herein was a minor at the time when the award was made and the present appeal filed. Pending appeal, he has attained majority and his application for declaration of major has also been allowed. He seeks permission to withdraw a sum of Rs.5,00,000/- out of the deposit made by the Insurance Company consequent upon the direction under order of this Court dated 02.04.2019.

3. The amount directed to be deposited was a sum of Rs.20,00,000/- and that order has been complied with. Out of the aforesaid amount, the first claimant was



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permitted to withdraw Rs.5,00,000/- and the second claimant was permitted to withdraw Rs.2,00,000/-.

4. In the interest of uniformity, the present petitioner, third claimant is also permitted to withdraw a sum of Rs.2,00,000/- (Rupees Two Lakhs only) out of the sum of Rs.20,00,000/- deposited. To clarify, with this, the balance sum of Rs.11,00,000/- would remain in the deposit. This Civil Miscellaneous Petition is partly allowed.

5. That apart, the present appeal has been filed disputing liability to the extent of Rs.66,21,818/-. The total compensation awarded is a sum of Rs.73,87,500/- and the admitted liability is thus of a sum of Rs.7,65,682/-. This amount, of Rs.7,65,682/- in respect of which, no appeal has been filed by the Insurance Company shall, along with interest, be deposited to the credit of CMA(MD)No.243 of 2019 before the Indian Bank Branch of this Court, within a period of four weeks from date of receipt of a copy of this order.

6. Needless to say, the respondents in appeal are permitted to take necessary steps to withdraw the aforesaid amount in accordance with law and presentation of requisite documents.



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7. Civil Miscellaneous Appeal number be corrected in the cause list and listed in due course.

sd/-
26/07/2023

/ TRUE COPY /

27/07/2023

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

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TO

THE MOTOR ACCIDENTS CLAIMS TRIBUNAL,
CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

COPY TO

THE SECTION OFFICER, JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.S.MURALI, Advocate (SR-11323[I] dated 27/07/2023)
+1 CC to M/s.A.SHAJAHAN, Advocate (SR-11397[I] dated 27/07/2023)

ORDER
IN
CMP(MD) No.8233 of 2023
in
CMA(MD) No.243 of 2019
Date :26/07/2023

RS//SAR-(27.07.2023) 4P 5C
Madurai Bench of Madras High Court is issuing
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