



CMP(MD) No.6988 of 2023

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

Thursday, the Twenty Fourth day of August Two Thousand and Twenty Three

PRESENT

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

CMP(MD) No.6988 of 2023
in
CMA (MD) No.425 of 2023

SUBBAIAH ALIAS SUBBAIAH PANDI ... Petitioner / 1st Respondent

Vs

1 M/s.ORIENTAL INSURANCE COMPANY LIMITED,
REPRESENTED BY ITS BRANCH MANAGER,
HAVING OFFICE AT
3RD FLOOR, S.K.G. COMPLEX,
NORTH RADHA VEETHI,
TENKASI.

... 1st Respondent / Appellant

2 MUJEEB

...2nd Respondent/2nd Respondent

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to withdraw 50 percent award amount with accrued interest deposited in MCOP No.256 of 2016 on the file of Motor Accident Tribunal cum Principal Sub-Court, Tenkasi.

Prayer in CMA(MD). 425/ 2023 :

Civil Miscellaneous Petition filed under Section 173 of Motor Vehicle Act to set aside the order of the Motor Accident Claims Tribunal cum Principal Sub Court, Tenkasi made in M.C.O.P.No.256 of 2016, dated 15-11-2022 and allow the appeal with costs.

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



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ORDER: This civil miscellaneous 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. S.KUMAR, Advocate for the petitioner and of Mr.C.JAWAHAR RAVINDRAN, Advocate on behalf of the Respondent No.1, 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 first respondent in the appeal seeking withdrawal of 50% of the amount of compensation deposited.

2. By order dated 25.04.2023, the appellant / Oriental Insurance Company Limited has been directed to deposit the entirety of the award passed in MCOP No.256 of 2016 on the file of the Motor Accident Claims Tribunal cum Principal Sub Court, Tenkasi, and Mr.C.Jawahar Ravindran, learned counsel for the appellant would confirm such deposit.

3. Relying on the judgment of Kalim Khan and Others vs. Fimidabee and Others (2018 (7) SCC 687), liability is disputed by the appellant on the ground that the claimant is a Loader and thus, would be entitled only to compensation in terms of the Workmen's Compensation Act, 1923.

4. Even assuming that this submission were to be accepted, the quantification under the Workmen's Compensation Act, 1923, would amount to 50% of the amount awarded and hence, this petition is ordered as prayed for.

5. The petitioner may appear before the Motor Accident Claims Tribunal cum



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Principal Sub Court, Tenkasi, with necessary documentation to enable withdrawal
of 50% of the compensation awarded with proportionate interest and costs.

6. List the Civil Miscellaneous Appeal in due course.

sd/-
24/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SM

To

The Principal Sub Judge,
Motor Accident Claims Tribunal, Tenkasi.

+1 CC to M/s.S.KUMAR, Advocate (SR-12829[I] dated 25/08/2023)

ORDER
IN
CMP(MD) No.6988 of 2023
in
CMA (MD) No.425 of 2023
Date :24/08/2023

ED/DD/SAR- (29/08/2023) 3P / 2C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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