



CRP(MD) Nos.1982 of 2018, 447 of 2020, 1253 of 2019 and 793 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP(MD) Nos.1982 of 2018, 447 of 2020, 1253 of 2019 and 799 of 2011

In C.R.P(MD)No.1982 of 2018:

The Branch Manager,

The New India Assurance Company Limited,

Tenkasi Road,

Rajapalayam Town,

Virudhunagar District.

...Petitioner / Respondent / 3rd Respondent

Vs.

1.K.Theivanai

2.Minor.K.Anandha Kala

3.Minor.K.Haribalan

... Respondents / Petitioners / Claimants

(Minor 2nd and 3rd respondents represented through their mother and natural guardian of the 1st respondent)

PRAYER : This Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order passed by the Learned Subordinate Judge, Srivilliputhur in E.P.No.20 of 2016 in M.C.O.P. No.118 of 2012 dated 26.07.2017.



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For Petitioner :Mr.N.Dilipkumar

For R1 to R3 :Mr.K.K.Balaram

In C.R.P(MD)No.447 of 2020:

United India Insurance Company Limited,

Through it's Branch Manager,

Ranipettai.

...Revision Petitioner / Respondent / 2nd Respondent

Vs.

1.Ramalakshmi

2.Minor Ishwarya

3.Swaminathan

... Respondents 1 to 3/Petitioners 1, 2 and 4

/Petitioners 1,2 and 4

4.Bagavathi

5.Ramasamy

6.Balaparvathi

7.Thirumalai Subiramanian

8.Sivagama Sundari

... Respondents No.4-8 / Petitioners 5-9

/ Legal Heirs of Deceased 3rd Petitioner

PRAYER : This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure against the order dated 05.11.2019 passed in E.P. No.125 of 2014 in M.C.O.P. No.428 of 2004 on the file of the Principal Sub-Court, Tenkasi.



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For Petitioner : Mr.I.Suthakaran

For R1 : No appearance

For R3, R5 & R7 : Mr.R.Gokul

In C.R.P(MD)No.1253 of 2019:

The Branch Manager,

United India Insurance Company Limited,
Madurai.

...Revision Petitioners / 2nd Respondent /
2nd Respondent

Vs.

1.Chidambaram

...1st Respondent / Petitioner / Claimant

2.Ravi

...2nd Respondent / 1st Respondent / 1st Respondent

PRAYER : This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure to set aside the order dated 25.04.2019 passed in E.P. No.381 of 2018 in M.C.O.P. No.470 of 2006 on the file of the Principal Sub Court, Dindigul.

For Petitioner :Mr.S.I.Suthakaran

For R1 :Mr.V.Janakiramulu



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In C.R.P(MD)NO.799 of 2019:

The Branch Manager,
United India Insurance Company Limited,
Rajapalayam Road,
Sankarankovil Town.

...Revision Petitioner / Respondent /
3rd Respondent

Vs.

Kaliammal

...Respondent / Petitioner / Claimant

PRAYER : This Civil Revision Petition is filed under Section 115 of Code of Civil Procedure against the Fair and Decreetal order dated 23.03.2019 passed in E.P. No.44 of 2017 in M.C.O.P. No.111 of 2013 on the file of MACT Sub Court, Sankarankovil.

For Petitioner	:Mr.S.I.Suthakaran
For Respondent	:Mr..R.J.Karthick
	:Mr.S.Srinivasa Raghavan
	Appointed as Amicus Curiae



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COMMON ORDER

All these four Civil Revision Petitions have been filed by Insurance Companies aggrieved by the orders of attachment passed by the Executing Courts in respect of the award amounts passed by the Motor Accident Claims Tribunal.

2. In all these cases, it is admitted that the compensation amount awarded by the Tribunal has become final and it has also been paid, save the interest amount on TDS. The dispute revolves only around the amount of TDS to be deducted in respect of the interest portion of the amount, namely 7.5% per annum, which has to be paid. The issue regarding payment of TDS to be deducted on such interest is pending before the Larger Bench of this Court. It is also brought to my notice that the same issue is also before the Hon'ble Supreme Court of India in W.P(Civil) No.534 of 2020.

3. The learned counsel for the Insurance Company has also placed reliance on the judgment of this Court in **Cholamandalam MS General Insurance Co. Ltd., Legal Department, Chennai 600 001** reported in **2020(4) CTC 53**. In the



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said decision, this Court has held that all the Execution Petitions relating to and confined to the issue of Tax Deduction at Source under Section 194-A of the Income-tax Act, 1961 shall stand stayed and await orders from the Larger Bench of this Court on the applicability of Section 194-A of Income-tax Act, 1961 and the mode and manner of application of the same will be in terms of final orders that will be passed by the Larger Bench.

4. As already stated, it is also brought to the notice of this Court that the Hon'ble Supreme Court of India is also seized of the same issue, Executing Courts have to await the finality with regard to this issue of deduction of TDS on the interest component of the award amount. It is also brought to the notice of this Court by the learned counsel appearing for the Insurance Companies that despite the order passed by this Court in C.M.A.No.1113 of 2020 dated 14.05.2020 in **Cholamandalam MS General Insurance Co. Ltd., Legal Department, Chennai 600 001 reported in 2020(4) CTC 53**, many Executing Courts across the State are still taking up Execution Petitions and ordering attachment for non-payment of the TDS amount on the interest portion. It is really unfortunate that despite a specific order of this Court granting a blanket stay, Executing Courts are ordering attachment of properties of the Insurance Companies.



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5. The Insurance Companies are not evading or escaping their liability. It is also represented by the learned counsel for the Insurance Companies that it is not as if the amount has not been deposited. They have deposited the disputed amount with the Government. It is also made clear that the entitlement of the claimants to this amount is subject to the outcome of the decision of the Larger Bench/the Hon'ble Supreme Court of India. It is a legal contention that is pending consideration before a Larger Bench of this Court as well as before the Hon'ble Supreme Court of India. Judicial discipline requires that the Executing Courts are bound to abide by the order passed by this Court in **Cholamandalam MS General Insurance Co. Ltd., Legal Department, Chennai 600 001 reported in 2020(4) CTC 53**. It is made clear that all the Execution Petitions relating to and confined to the issue of Tax Deduction at Source under Section 194-A of the Income-tax Act, 1961, pending on the file of all the Motor Accident Claims Tribunals in Tamil Nadu, at whatever stage, shall stand stayed with regard to the deduction of interest on TDS alone and in all other aspects, if any amount is due and payable by the Insurance Companies, the Executing Courts may proceed with the same.



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6. This course of action would also sufficiently protect the interests of the claimants as the Execution Petitions have been filed in time and the same are only subject to the outcome of the decision of the Larger Bench of this Court and also the Hon'ble Supreme Court of India. Thus, no useful purpose would be served by keeping these revisions pending.

7. All these revisions necessarily have to be allowed. The orders of attachment passed by the Executing Courts are hereby set aside. However, it is made clear that the claimants are at liberty to claim the said amount deducted towards TDS, subject to the result of the decision of the Larger Bench/ the Hon'ble Supreme Court of India being in their favour.

8. In the result, these Civil Revision Petitions are allowed. The order of attachment impugned in these revision stand set aside. No Costs. Registry is directed to circulate this order to all Executing Courts dealing with Motor Accident Claims Tribunal cases to ensure that hereafter no orders of attachment are passed for non-payment of TDS portion in respect of the interest component



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of the awards passed by Motor Accident Claims Tribunal, pending a final decision in that regard is arrived at by the Larger Bench of this Court/Apex Court.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

03.11.2023

CM

To,

- 1.The Subordinate Court, Srivilliputhur.
- 2.The Principal Sub-Court, Tenkasi.
- 3.The Principal Sub Court, Dindigul.
4. The Sub Court, Sankarankovil.
- 5.The Section Officer, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI. J.

CM

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