



CMP(MD).No.12369 of 2023

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

Wednesday, the Twenty Seventh day of September Two Thousand and
Twenty Three

PRESENT

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

CMP(MD).No.12369 of 2023
in
CMA(MD).Nos. 644 of 2023

RAJAPANDI

... PETITIONER

Vs

THE MANAGING DIRECTOR,
TAMILNADU STATE TRANSPORT CORPORATION,
MARUDHUPATHY NAGAR, KARAIKUDI,
SIVAGANGAI DISTRICT.

... RESPONDENT

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 withdraw deposited amount to credit of M.C.O.P.No.11 of 2018 on the file of the Motor Accident Claims Tribunal(Sub Court), Mudhukulathur, pending disposal of the above Civil Miscellaneous Petition and thus render justice.

Prayer in CMA(MD). 644/ 2023 :

Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act to set aside the judgment and decree dated 07.09.2022 passed in M.C.O.P. No. 11 of 2018 on the file of Motor Accidents Claims Tribunal (Sub Judge Court), Mudukulathur by allowing this appeal and thus render justice.



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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.E.RAVI, Advocate for the petitioner and of MR.A.V.B.KRISHNAKANTH, Advocate on behalf of the Respondent, the court made the following order:-

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

At the time of admission on 18.07.2023, 50% of the amount awarded ie., a sum of Rs.11,00,000/- was directed to be deposited along with accrued interest and costs to the credit of MCOP.No.11 of 2018 before the Motor Accident Claims Tribunal, Sub Court, Mudukulathur.

2. Mr.A.V.B.Krishnakanth, learned counsel appearing for the Transport Corporation confirms compliance with the aforesaid direction.

3. This petition is for withdrawal of the aforesaid amount.

4. The defence put forth by the Transport Corporation is that the petitioner was not wearing a helmet at the time of accident and that he was inebriated.



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5. Both these aspects have been taken into account by the Tribunal and a finding has been returned that, even assuming the aforesaid two positions are correct, various evidences put forth would reveal that it was the driver of the Transport Corporation Bus that had driven on the wrong side of the road and colluded against the motor cycle. The Tribunal held that there shall be no contributory negligence attributable to the petitioner (See para 33 of the order of the Tribunal). This aspect of the matter would have to be decided in appeal.

6. Thus, and for the purposes of this petition, bearing in mind the aforesaid findings, we permit the petitioner to withdraw the amount deposited, for which, necessary papers may be presented before the Tribunal.

7. This Civil Miscellaneous Petition is ordered in the above terms.

sd/-
27/09/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

msa



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TO
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THE MOTOR ACCIDENT CLA IMS TRIBUNAL(SUB COURT),
MUDHUKULATHUR.

ORDER
IN
CMP(MD).No.12369 of 2023
in
CMA(MD).Nos. 644 of 2023
Date :27/09/2023

RK/DD (03/10/2023) 4P / 2C

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