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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12.09.2023

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CM(M) 737/2022 & CM APPL. 32822/2022

UNITED INDIA INSURANCE CO.LTD

..... Petitioner

Through: Mr.Shankar N. Sinha, Adv.

versus

SMT VIDYA DEVI AND ORS

..... Respondents

Through: Mr.A.K. Mishra & Mr.Uma
Shankar, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner praying for the following relief:-

"a). to modify the Order dated 06.12.2014 passed by the National Lok-Adalat in MAC Appeal No. 124/08 & 125/08 respectively.

b). to reflect on separate statements of parties as recorded in the presence of Lok-Adalat in view of settlement of the aforesaid Mac Appeals."

2. The brief facts leading to the filing of the present petition are that on 16.06.1999, deceased Kamlesh along with his family was travelling as a tourist from Madurai to Kanya Kumari in a hired vehicle bearing no. TN 65A-9559, when the said vehicle met with an accident with another vehicle, as a result whereof, the deceased and one of his sons, namely, Surender Vaishnev Dev, died. The wife of the deceased along with other Legal Heirs preferred two Claim Petitions, the first one claiming



compensation for the death of the deceased, being MACT Suit No. 525/1999, and the other one as the mother of the deceased-late Shri Surender Vaishnev Dev, which was registered as MACT Suit No. 582/1999.

3. By a common Award dated 05.11.2007 passed by the learned Motor Accident Claims Tribunal, Patiala House Courts, New Delhi (hereinafter referred to as the 'Tribunal'), compensation of Rs.38,44,000/- less the amount of *interim* award, if any, along with interest at the rate of 7% per annum was awarded in favour of the claimants from the date of filing of the petition till its realisation in the MACT Suit No. 525/1999. In MACT Suit No. 582/1999, a compensation of Rs.8,00,000/- less the amount of *interim* award, if any, along with interest at the rate of 7% per annum from the date of filing of the petition till realisation was awarded in favour of the Claimants therein.

4. The petitioner herein, being aggrieved of the above Awards passed by the learned Tribunal, preferred two appeals, being MAC.APP. No. 124/2008 and MAC.APP. No. 125/2008. The appeals were, however, dismissed by this Court vide its order dated 27.02.2008. Aggrieved of the said order of this Court, the petitioner herein challenged the same before the Supreme Court. It is stated that the Supreme Court, vide its order dated 24.09.2013, restored the appeals and also directed the petitioner herein to deposit 50% of the entire awarded



amount with interest accrued thereon against each of the awards.

5. The respondents/claimants filed cross objections against both the Appeals vide Diary no. 78018 in MAC. APPL. 124/2008 and vide Diary no. 78019 in MAC. APPL. 125/2008. Before the same could be registered and numbered by the Registry of this Court, the parties entered into a settlement before the National Lok Adalat.

6. The learned National Lok Adalat-II passed the following order on 06.12.2014:-

“MAC APP. 125/2008 & 124/2008

Two suits bearing Nos.525/1999 and 582/1999 were filed by the respondent against the appellant. In Suit No.525/1999, a compensation of Rs.38,44,000 less the amount of interim award along with interest of 7% was awarded from the date of filing of the petition till realization. In Suit No.582/1999, a total compensation of Rs.8 lacs less the amount of interim award along with interest of 7% was awarded from the date of filing of the petition till realization.

Insurance company preferred MAC APP. 124/2008 and 125/2008. Cross objections have been filed by the respondent/claimant in both these matters vide diary Nos. 78018 and 78019 which are pending in the Registry. The parties have settled their disputes. Insurance Company has agreed to pay a sum of Rs.15 lacs over and above the amount awarded in MAC APP. 124/2008 which will be paid in six weeks in the name of Registrar General of this Court. Insurance Company withdraws MAC App. 125/2008. In view of the settlement, the respondent/applicant withdraws the cross-objections filed and pending in the Registry.



Statements of the parties have been recorded separately.

After the deposit of the amount by the Insurance Company, Registrar General is directed to disburse the amount of Rs.15 lacs in the following manner:-

- (i) A sum of Rs.3 lacs be paid to Smt. Vidya Devi, wife of the deceased. FDR in the sum of Rs.4 lacs be prepared in her name for a period of three years and she will be entitled for monthly interest on the same.*
- (ii) Rs.1 lac each be paid to Anita Sharma and Sunita Sharma, daughters of the deceased and Smt. Narbada Devi, mother of the deceased.*
- (iii) Rs.2 lacs be paid to Ajay Sharma, son of the deceased and FDR in the sum of Rs.3 lacs be prepared in his name for a period of three years. However, he will be entitled for monthly interest on the same.*

Statutory court fee amount of Rs.25,000/- paid in both the cases be refunded to the Insurance Company as per rules.

In view of above, the matter stands disposed of as settled.”

(Emphasis supplied)

7. The National Lok Adalat also recorded the statements of the Assistant Manager of the petitioner herein, as also the learned counsel appearing for the respondents/claimants, as under:-

“STATEMENT OF SHRI VIKAS NEGI S/O OF SHRIN D. B. S. NEGI AGE 38 YRS ASSISTANT MANAGER APPELALNT COMCPANY.

ON SA

Company has agreed to pay a sum of Rs.15 lacs as enhancement towards full and final



settlement in MAC APP 124/2008 over and above the award amount and the cross objection filed by respondent/claimant lying in the Registry. We will pay the amount within six weeks in the name of the Registrar. Accordingly MAC no.124/2008 stands disposed of and MAC no.125/2008 is withdrawn. Statutory amount deposited in both the appeals be refunded to the Insurance Company. Enhanced amount will be deposited in the name of the Registrar General of this Court within six weeks from the receipt of the copy of the order.”

“JOINT STATEMENT OF SHRI A. K. MISHRA, COUNSEL FOR RESPONDENT Nos. 1. to 5/CLAIMANTS ALONG WITH AJAY SHARMA,

S/O SHRI KAMLESH CLAIMANT/RESPONDENT SHARMA AGE 31 YRS,
ON SA

In view of the settlement by enhancement of the award by Rs. 15 lacs in MAC APP No.124/2008 we withdraw our cross objection in MAC APP Nos.124/2008 and 125/2008 filed by Diary Nos.78018 and 78019 which are pending in the Registry. No claim is left whatsoever in these matters against the Insurance Company.”

(Emphasis supplied)

8. The petitioner claims to have deposited the enhanced compensation amount in terms of the order passed by the learned National Lok Adalat.

9. The respondents, however, filed an Execution Petition bearing Ex. Petition No. 247/2021 before the learned Tribunal, seeking enforcement of the Award dated 05.11.2007 passed in MACT Suit No. 582/1999. Aggrieved of the notice issued on



the said Execution Petition, the petitioner has preferred the present petition.

10. It is claimed in the petition that all claims of the respondents with respect to MAC.APP. 124/2008 and 125/2008 stand settled with the passing of the order dated 06.12.2014 by the learned National Lok Adalat-II. The learned counsel for the petitioner reiterates the same. He submits that an additional amount of Rs.15,00,000/- was agreed to be paid by the petitioner to the respondents/claimants, only as a full and final settlement against both the Claim Petitions and both the appeals as also the cross objections filed by the respondents. He submits that the respondent cannot now be allowed to claim amounts over and above the settlement amount.

11. I am unable to agree with the submissions made by the learned counsels for the petitioner. The order dated 06.12.2014 passed by the learned National Lok Adalat-II is clear, unambiguous, and explicit. The petitioner had agreed to pay a sum of Rs.15,00,000/- over and above the amount awarded in MAC APPL. 124/2008, which is related only to the Claim Petition bearing MACT Suit No. 525/1999. As far as MAC. APP. 125/2008, which related to and arose out of the Award passed in MACT Suit No. 582/1999, the same was withdrawn by the petitioner herein. On withdrawing its appeals, the Award dated 05.11.2007 passed by the learned Tribunal in MACT Suit no. 582/1999 became final and enforceable. Therefore, no error can be found in the learned Tribunal proceeding with the



Execution Petition filed by the respondents/claimants seeking enforcement of the Award dated 05.11.2007 passed in MACT Suit No. 582/1999.

12. I may also note that though this petition prays for modification of the order dated 06.12.2014 passed by the learned National Lok Adalat-II, the said prayer was not contended before this Court by the learned counsel for the petitioner. Even otherwise, in view of Section 21 of the Legal Services Authorities Act, 1987, which states that every award of the Lok Adalat shall be deemed to be a decree of a Civil Court and shall be final and binding on all the parties to the dispute, the said prayer is not maintainable before this Court.

13. Accordingly, I find no merit in the present petition. The same is dismissed.

14. The petitioner shall pay a cost of Rs.25,000/- to the respondents.

NAVIN CHAWLA, J

SEPTEMBER 12, 2023/rv/AS