



CRP.No.573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HON'BLE MR. JUSTICE **P.B.BALAJI**

CRP.No.573 of 2023  
and C.M.P.No.4630 of 2023

Royal Sundaram General Insurance Company Limited,  
Represented by its Branch Manager,  
TP Claims Office, Subramaniam Building,  
2<sup>nd</sup> Floor, No.1, Club House Road,  
Chennai – 600 001.

..Petitioner

Vs.

Mr.Arumugam

..Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 07.09.2022 in I.A.No.2 of 2022 in M.C.O.P.No.862 of 2012, on the file of the Additional Subordinate Judge, Tiruppur.

For Petitioner : Mr.M.B.Raghavan

For Respondent : No appearance

### **ORDER**

This Civil Revision Petition has been filed against the fair and decreetal order dated 07.09.2022 in I.A.No.2 of 2022 in M.C.O.P.No.862 of 2012, on the file of the Additional Subordinate Judge, Tiruppur.



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2.The Insurance Company is on appeal, aggrieved by the order of the Tribunal in I.A.No.2 of 2022 in and whereby the Tribunal has rejected the statement of calculation relied on by the petitioner/Insurance Company. However, the Tribunal, while dismissing the application, has granted liberty to the revision petitioner to file a fresh petition with a correct calculation.

3.Despite service of notice, the respondent has not appeared in person or through counsel. I have heard Mr.M.B.Raghavan, learned counsel appearing for the revision petitioner.

4.The learned counsel appearing for the revision petitioner would invite my attention to the statement of calculation of the petitioner, Insurance Company annexed along with the typed set of papers. According to the learned counsel for the revision petitioner, the award amount of the Tribunal was Rs.23,74,700/- which was ordered to be paid together with interest at 7.5% per annum from the date of filing of MCOP, till the date of deposit, with interest accrued to an amount of Rs.7,69,500/- and adding a cost of Rs.53,877/-. The total amount payable by the petitioner, Insurance Company worked out to Rs.31,98,077/-.



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5. According to the learned counsel for the revision petitioner, the Company has deducted the applicable TDS of Rs.1,53,900/- from the total amount payable by them and deposited a sum of Rs.30,44,177/-. The petitioner has already withdrawn a sum of Rs.14,94,215/-. However, when the revision petitioner filed an application for payment out, the Tribunal has dismissed the said application finding that there has been a shortfall in deposit of the amount due and payable by the revision petitioner.

6. The said finding of the Tribunal is clearly erroneous in view of the fact that the only amount that has been deducted from the total amount payable by the revision petitioner is the TDS component amounting to Rs.1,53,900/-.

7. Admittedly, the said TDS amount enures to the benefit of the claimant and therefore, the revision petitioner is entitled to seek the deduction of the said amount and deposit the balance award amount alone. Therefore, the Tribunal has clearly erred in dismissing the application for payment out of sum of Rs.7,27,672/-, finding that only a sum of Rs.5,98,077/- is due and payable and therefore, this Court is constrained to interfere with the order of the Tribunal. Accordingly, the revision petitioner is entitled to payment out of Rs.7,27,672/-.



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It is open to the first respondent in MCOP to seek payment out of the balance amount available to the credit of the MCOP, by filing an appropriate application.

8.In fine, the Civil Revision Petition is allowed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

21.11.2024

Speaking/Non-speaking order  
Index : Yes/No  
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To

The Additional Subordinate Judge, Tiruppur.



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**P.B.BALAJI.J.**

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