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C.R.P.(NPD) No.4418 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.12.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.4418 of 2023 and
C.M.P.No.26697 of 2023

1. A.Senthilvel
 2. S.Anitha
- VS-
1. Easwara Muthaliar
 2. The Manager
New India Assurance Company Limited,
Door No.1360A, First Floor,
Amman Complex, Mettur Road,
Erode Town, Erode District.
 3. The Inspector of Police,
Gobichettipalayam,
Erode District.

... Petitioners/Respondents 1 & 2

... 1st Respondent/Petitioner

... 2nd Respondent/3rd Respondent

... 3rd Respondent

(R3 suo motu impleaded by this Court on 05.11.2024)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Settlement Award made in Lok Adalat L.A.No.46 of 2022 dated 12.03.2022 in M.C.O.P.No.170 of 2021 on the file of MACT (3rd Additional District Judge) at Gobichettipalayam by allowing this Civil Revision Petition.

For Petitioners : Mr.P.R.Shankar
For R1 : Mr.C.Munusamy



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For R2 : Mr.J.Michael Visuvasam
For R3 : Mr.R.Kishore Kumar
Govt. Advocate (Crl.Side)

ORDER

A challenge has been made to the Award of the Permanent Lok Adalat, settling a sum of Rs.2,74,000/- to the 1st respondent for the injury sustained in a road accident that had taken place on 25.02.2021.

2. Originally, a Claim Petition had been filed by the 1st respondent in M.C.O.P.No.170 of 2021 against the revision petitioners, who are the Driver and Owner (husband and wife) of the car respectively as well as Insurance Company, attributing negligence to the Driver of the Car bearing Reg.No.TN-36-AB-1681. On account of the accident caused by the Driver, the 1st respondent is said to have suffered grievous injury.

3. In the Claim Petition, it was alleged that only the 1st revision petitioner was rash and negligent in driving the car and in that premise, compensation has been claimed. The Claim Petition was taken on file and notices were served on the revision petitioners and the insurance company for hearing on 29.10.2021 and all of them appeared before the Tribunal.



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Thereafter, the matter had been adjourned on various dates, viz., 22.12.2021, 28.01.2022, 01.03.2022 and 05.03.2022 for filing counter by the respondents in the claim petition. Subsequently, the matter had been referred to the Lok Adalat held on 12.03.2022 and the matter has been settled between the insurance company and the claimant, pursuant to which, an amount of Rs.2,74,000/- has been deposited. Challenging the said Award, the present Civil Revision Petition has been filed, on the ground that the Award had been passed behind their back without giving any notice or intimation and that 1st respondent herein has played fraud before the Court and got the settlement in his favour.

4. It is the case of the revision petitioners that there was a collusion between R1 and R2 in awarding the amount and according to them there was no such accident taken place as alleged by the 1st respondent herein.

5. Learned counsel for the revision petitioners submitted that the 1st respondent, due to his old age, fell down and in fact, it was the 1st



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revision petitioner, who gave him the first aid and sent him to the hospital.

Later, the same had been converted as an accident case and a Claim Petition filed. He further submitted that in fact, the 1st revision petitioner sent a letter to the Police Station on 25.02.2021 itself, denying the accident, however, the same had not been properly enquired into. According to him, investigation has not been done in the right manner and FIR has been filed belatedly after 25 days and therefore, the entire award is the result of collusion and fraud played on the Tribunal. Learned counsel for the revision petitioners relied on a judgment of The Gauhati High Court in the case of **Smt.Sangluri vs. Sh.H.Lalhmingmawia and 3 others (CRP/1/2022) decided on 14.11.2024** in support of his submission.

6. Per contra, learned counsel for the respondents 1 & 2 contended that the accident occurred on 25.02.2021 and the Accident Register recorded in the Government Hospital clearly proves the actual scenario and the 1st revision petitioner, being a Lawyer sent a letter in order to avoid criminal liability, whereas, the investigation clearly revealed that the accident had occurred and in fact, the 1st revision petitioner was arrested



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and released on bail. No objection whatsoever had been raised at the earlier point of time. Even in the criminal case, P.Ws.1 to 3 were examined and those witnesses have not been cross examined in this regard. Therefore, only for the purpose of criminal trial, this defence has been set up by the 1st revision petitioner, who is a practicing Advocate.

7. I have perused the material documents available on record.

8. For the accident said to have occurred on 25.02.2021, a Claim Petition had been filed in M.C.O.P.No.170 of 2021, wherein it was the specific stand taken by the 1st respondent that the 1st revision petitioner herein drew the car in a rash and negligent manner and hit against him, which had resulted in sustaining grievous injuries. Whereas, it was the contention of the revision petitioners that no accident had taken place and due to old age, the 1st respondent fell down and was sent to the hospital by the 1st revision petitioner.

9. On a perusal of the typeset of papers produced on either side, the very first document, namely, Accident Register recorded by the Medical



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Officer in the Government Hospital indicates that the 1st respondent suffered injuries in a road accident. Though it was the stand taken by the 1st revision petitioner that he sent a registered post to the Police Station on the same day, the fact remains that anticipating some criminal action against him on that day itself, such a defence has been set up. If there was indeed no accident taken place, there was no necessity to react immediately, denying the accident itself.

10. Be that as it may, it appears that FIR came to be filed on 22.03.2021. Since the complainant was severely injured and was in hospital, he did not give statement immediately. If really there was no such accident, 1st revision petitioner should have reacted immediately, when he was arrested and released on bail, but he had not taken such defence at that time. That apart, the moment the insurance company sent a notice after receipt of summons from the Court on 05.10.2021, there was no reply sent by the 1st revision petitioner. If the revision petitioners felt that they were unnecessarily implicated in the road accident, the immediate reaction of them would be to give a suitable reply to the insurance company, which



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admittedly had not been done. That apart, summons were served on the revision petitioners on 29.10.2021 and they also chose to appear before the Court from 22.12.2021 and the matter had been adjourned periodically upto 05.03.2022. Till such time, counter has not been filed, disputing the accident. The conduct of the parties before the judicial forum itself indicates that the earlier stand taken by the petitioners on the date of accident is only for the purpose of evading criminal trial.

11. Further, in the Criminal Trial, P.Ws.1 to 3 were examined and if there was no such accident as alleged by the revision petitioners, they should have immediately cross examined the so called eye witnesses, when they were examined before the Court. On a perusal of evidence, not even a single question was put against the parties, when they were examined in the Trial Court. Further, no petition whatsoever had been filed by the revision petitioners for re-investigation or further investigation and no mala fide had also been attributed to the Police Officials.

12. The insurance company, which had conducted investigation through its Investigating Agency itself had not disputed the accident and



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settled the amount. It is relevant to point out that one of the revision petitioners, namely, 1st revision petitioner, is a practicing Lawyer and he must have been aware of all the hearings, as the matter had been periodically adjourned from 22.12.2021 till 05.03.2022. In all probabilities, he must be aware of the matter being referred to the Lok Adalat and nothing prevented the revision petitioners to bring it to the notice of the Lok Adalat about the alleged implication in the road accident, which had not been done. Merely for the sake of some letter sent by the 1st revision petitioner at the earlier point of time, it cannot be said that the entire award is vitiated. In the Lok Adalat Panel, out of three members, one of them was a Serving Judge and two others were practicing Lawyers and therefore, it cannot be said that the award is not valid in the eye of law.

13. The judgment referred to by the learned counsel for the petitioners is distinguishable, for the simple reason that, in that judgment, no notice was served on the parties and only in that context, the award of the Lok Adalat was set aside therein, which is not the case in the case on hand.



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14. For the foregoing discussions and reasons, finding no merits

in the argument advanced by the learned counsel for the petitioners, this Civil Revision Petition is dismissed. The Claimant / 1st respondent herein is entitled to withdraw the amount on filing a formal application before the Trial Court. No costs. Consequently, connected Miscellaneous Petition is closed.

10.12.2024

Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order
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To:

III Additional District Judge,
Gobichettipalayam

N.SATHISH KUMAR,J.,
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