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CRP Nos.125 and 126 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2024

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.125 and 126 of 2024 and
CMP No.584 of 2024 in CRP No.126 of 2024

S.Jayanthi

... Petitioner in
CRP No.125/2024

Porselvi

... Petitioner in
CRP No.126/2024

Vs.

United India Insurance Company Limited,
Plot No.35, 36 and 37,
45 feet road, Balaji Nagar,
Puducherry 605 011.

...Respondent in
both CRPs

PRAYER in CRP No.125 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 11.01.2023 passed in I.A.No.128/2022 in MCOP No.97/2011 by the Chief Judicial Magistrate, Villupuram and to allow the above I.A.No.128 of 2022 in MCOP No.97/2011 on the file of the Chief Judicial Magistrate, Villupuram, permitting the petitioners to withdraw a sum of Rs.11,98,716/- deposited in the account of the MCOP.

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PRAYER in CRP No.126 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 11.01.2023 passed in I.A.No.129/2022 in MCOP No.97/2011 by the Chief Judicial Magistrate, Villupuram and to allow the above I.A.No.129 of 2022 in MCOP No.97/2011, permitting the petitioners to withdraw a sum of Rs.8,30,791 deposited in the account of the MCOP.

In both CRPs.

For Petitioners : Mr.V.Sundarraman and Mr.K.Vijayakumar

COMMON ORDER

Both the Civil Revision Petitions have been filed to set aside the common order dated 11.01.2023 passed in I.A.Nos.128 and 129/2022 in MCOP No.97/2011 by the learned Chief Judicial Magistrate, Villupuram.

2. The facts and circumstances and the issues involved in both the civil revision petitions are one and the same. Hence, they are taken together and common order is passed.



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3. The brief facts leading to the filing of Civil Revision petition is as follows:

The petitioner in CRP No.125/2024 is wife and the petitioner in CRP No.126/2024 is daughter of the deceased Shanmugasundaram. The petitioners herein, along with two other legal heir of the deceased, had filed MCOP No.98/2011 seeking compensation of Rs.27,00,000/- before the Motor Accident Claims Tribunal, Villupuram for the death of Shanmugasundaram. The above claim petition was partly allowed on 27.11.2015, by granting compensation of Rs.16,81,680/-, along with interest at 7.5%. Further, the above compensation amount was directed to be given to the claimants as, Rs.6,00,000/- to the first claimant; Rs.4,15,840/- each to the second and third claimants; and Rs.2,50,000/- to the fourth claimants. Thereafter, the petitioners and two others/claimants have filed payment out petitions before the Tribunal, seeking to give their respective share. The Tribunal has dismissed the petitions, as there is a stay order for withdrawal of the amount by this Court in CMP No.3802/2017 in CMASR



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No.95738/2016, dated 14.03.2017. Against which, the present civil revision petitions have been filed.

4. The learned counsel for the petitioners submitted that, after allowing the said condonation petition, the respondent/Insurance Company has not taken any steps to number the appeal and hence, they could not make any application before this Court for withdrawing the amount. As such, they have filed the applications to withdraw the amount before the Tribunal, but without considering the above aspect, the learned Trial Judge has dismissed the applications.

5. Heard the learned counsel for the petitioner and I have perused the materials on record.

6. A perusal of the records reveals that after passing judgment in the above MCOP No.97/2011, dated 27.11.2015, the Insurance Company has filed an appeal before this Court along with CMP No.3802/2017 in CMA



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SR No.95738/2016 to condone the delay of 302 days in filing the appeal.

The above petition was allowed by this Court on 14.3.2017 with condition, which is extracted hereunder.

" 3. Taking note of the above, we deem it fit to order notice through court and privately returnable by .4.2017. The appellant/United India Insurance Co. Ltd., Villianoor is directed to deposit the entire award amount with proportionate interest and costs, less the statutory deposit to the credit of MCOP No.97/2011 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Villupuram, within a period of three weeks from today. Amount directed to be deposited shall not be withdrawn, without the leave of this Court ".

7. Pursuant to the direction of this Court, the Insurance Company has deposited the entire award amount. Therefore, the petitioners/claimants have filed payment out petitions before the Tribunal, which were dismissed as stated supra. Since there is a specific condition that the amount deposited by the Insurance Company shall not be withdrawn, without the leave of this Court, the learned Judge has rightly dismissed the payment out petitions and if ind there is no illegality in the above impugned order. As such, the civil



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revision petitions are liable to be dismissed.

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8. In fine, the civil revision petitions are dismissed and the impugned order passed by the Trial Court is confirmed. No costs. Consequently, connected miscellaneous petition is closed. The petitioners are permitted to file application before this Court to withdraw the compensation amount.

29.01.2024

Index: Yes/No
Internet: Yes/No
mst

To

The Chief Judicial Magistrate, Villupuram.



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V.SIVAGNANAM, J.,

mst

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