



W.P(MD)No.14725 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.01.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE B.PUGALENDHI**

W.P.(MD)No.14725 of 2018
and
W.M.P.(MD)No.13257 of 2018

The Oriental Insurance Company Ltd.,
Represented by its Assistant Manager,
6-A, North Cotton Road,
Tuticorin,
Tuticorin District.

... Petitioner

/Vs./

1.The District Legal Services Authority,
Represented by its Secretary,
Tuticorin,
Tuticorin District.

2.Thanasingh
3.D.Saravanakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to award in Lok Adalat Case No.275 of 2017 (M.C.O.P.No.130 of 2017 on the file of the Chief Judicial Magistrate, Tuticorin), dated 09.09.2017 passed by the first respondent and quash the same as illegal.



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For Petitioner : Mr.Rajesh Saravanan
For R1 : Mr.R.Suresh Kumar
Additional Government Pleader
For R2 : Mr.R.J.Karthick

ORDER

This writ petition has been filed by the Insurance Company challenging the award passed in the Lok Adalat on 09.09.2017 by the Chief Judicial Magistrate, Tuticorin.

2.The second respondent has filed a claim petition seeking compensation for the injuries suffered by him in an accident that was taken place in the year 2016. The matter was referred to Lok Adalat. By consent, it was disposed of in the Lok Adalat on 09.09.2017. An award has been passed directing the Insurance Company to settle the agreed amount of Rs.5 lakhs within a period of six weeks from the date of the award and it was further directed that if any further delay is occurred, the award amount shall be deposited with interest at the rate of 7.5% per annum. This award dated 09.09.2017 was duly accepted by the Manger of the Insurance Company along with his counsel.



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3.The present writ petition has been filed stating that only after the award was passed, the Insurance Company came to know that the driver of the third respondent was not having any valid driving license at the time of the alleged accident and therefore, the Insurance Company sought permission of this Court to pay and recover the compensation from the third respondent.

4.Today, when the matter is called, there is no representation for the third respondent/owner of the vehicle.

5.The learned counsel for the Insurance Company submits that only after the award was passed, they came to know that the third respondent was not having any valid driving license at the time of the accident and it is against the policy condition. Therefore, the third respondent is liable to pay the compensation amount to the claimant and not the Insurance Company. However, in the award of the Lok Adalat, no such liberty was given to the Insurance Company to recover the award amount from the third respondent and such liberty may be given to the petitioner.



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6.The learned counsel for the second respondent/claimant submits that the second respondent suffered injuries in his neck and also suffered from dislocation of bones in his hip. He was admitted in the hospital for about 42 days and incurred an expenditure of Rs.4,50,000/-. The second respondent has filed the claim petition seeking compensation of Rs.30 lakhs. However, he confined his claim to a sum of Rs.5 lakhs in the Lok Adalat under the belief that he may get the compensation at the earliest. However, though the award has been passed on 09.09.2017, not even a single pie has been paid by the Insurance company to the second respondent till today. The very purpose of consent before the Lok Adalat itself has been defeated by way of this writ petition. By filing this writ petition, the Insurance Company has evaded the payment of compensation for the past 5 years.

7.This Court has considered the rival submissions made on either side.

8.The grievance of the Insurance Company is that while passing the award in the Lok Adalat, liberty was not given to the petitioner to recover the amount from the third respondent /owner of the vehicle since there is a violation of policy



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condition. However, no such plea was taken before the Lok Adalat. According to the learned counsel for the petitioner, they came to know that the third respondent was not having the driving license at the time of accident, only after the award was passed. As rightly pointed out by the learned counsel for the second respondent, the parties have agreed for settlement of a sum of Rs.5 lakhs.

9.If the grievance of the petitioner Insurance Company is for liberty to claim the award amount from the third respondent on the basis of violation of policy condition, they ought to have filed a separate application before the Lok Adalat requesting for that relief or they ought to have paid the award amount as agreed before the Lok Adalat as on 09.09.2017 and then they ought to have prosecuted this writ petition. But the petitioner without paying the agreed amount, is prosecuting this writ petition for the relief of recovery from the third respondent. Ultimately the second respondent/claimant is the sufferer.

10.As there is no justification in not paying the award amount, which has been granted by consent, this Court deems it fit to put the petitioner on terms. Though this Court was inclined to direct the petitioner to pay a sum of



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Rs.1 lakh to the second respondent for the delayed payment, in order to avoid further delay in paying the compensation to the second respondent, this Court reduces the amount to a sum of Rs.25,000/- (Rupees Twenty Five Thousand only).

11. Accordingly, this writ petition is disposed of with the following directions:

(i) The petitioner is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in addition to the agreed amount vide award dated 09.09.2017 to the second respondent within a period of ten days from the date of receipt of a copy of this order.

(ii) On such payment, the petitioner shall file necessary application for recovery of compensation amount from the third respondent.

Consequently, connected miscellaneous petition is closed

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Index : Yes / No
Internet : Yes / No
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To

The District Legal Services Authority,
Represented by its Secretary,
Tuticorin,
Tuticorin District.



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B.PUGALENDHI,J.

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