



C.M.A.(MD)No.1424 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

**C.M.A.(MD)No.1424 of 2024
and C.M.P.(MD)No.15336 of 2024**

The Branch Manager,
United India Insurance Company Limited,
42, Mutt Street,
1st Floor,
Kumbakonam

... Appellant

versus

1. William Louis Linnet
2. C.Adolphus Nirmal Raj
3. M.Sangeetha
4. K.Prabhu

... Respondents

PRAYER: Appeal filed under Section 173 of Motor Vehicles Act, as against the Judgment and Decree dated 29.11.2022 made in M.C.O.P.No.11 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

For Appellant : Mr.I.Suthakaran

For R1 and R2 : Mr.AN.Ramanathan



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JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

This Civil Miscellaneous Appeal is filed as against the Judgment and Decree dated 29.11.2022 made in M.C.O.P.No.11 of 2017 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

2. The respondents 1 and 2 herein filed a claim petition before the Motor Accident Claims Tribunal in M.C.O.P.No.11 of 2017 seeking compensation for the death of one Christopher Sahayaraj, who is the husband of the first respondent and father of the second respondent herein, in an accident that had occurred on 22.04.2016. The Tribunal, by Judgment and Decree dated 29.11.2022, has awarded a sum of Rs.45,82,520/- as compensation together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. However, in Clause 7 of the Judgment and Decree dated 29.11.2022, it has been stated as follows:

“(vii) As per the Judgment of the Hon'ble Madras High Court in the Managing Director, TNSTC (Salem) Ltd. vs.



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Aggrieved over the said Clause, the Insurance Company has filed the present Civil Miscellaneous Appeal.

3. The learned counsel appearing for the appellant submits that the Insurance Company has to deduct TDS amount, while depositing the award amount before the Tribunal. But, in this regard, there is a reference pending before the Hon'ble Supreme Court as well as before this Court. In order to get clarification with regard to the same, the Insurance Company has filed this present appeal.

4. The Circular dated 14.10.2011 issued by the Income Tax Authorities, whereby deduction of income tax has been ordered on the award amount and interest accrued on the deposits made under the orders of the Court in Motor Accident Claims case, was quashed by the High Court of Himachal Pradesh in a *suo motu* proceedings, reported in **2014 SCC OnLine HP 4273** and the same was followed by the **Hon'ble Justice J.B.Padriwala** (as he then was) leading



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the Division Bench of Gujarat High Court in the case of ***Oriental Insurance Company Ltd. vs. Chief Commissioner of Income Tax (TDS)*** reported in ***2023 (1) TNMAC 465***. Aggrieved over the Judgment of the High Court of Himachal Pradesh, an Appeal is filed and the same is pending before the Hon'ble Supreme Court, however, there was no stay in the said challenge. Since the reference regarding the deduction of TDS is pending before the Hon'ble Supreme Court as well as before this Court, the issue herein will be decided after the outcome of the decision of the Hon'ble Apex Court as well as this Court.

5. Accordingly, this Civil Miscellaneous Appeal is disposed of. The appellant/Insurance Company is directed to deposit the award amount together with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the TDS amount, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants/respondents 1 and 2 herein are permitted to withdraw the amount with accrued interest as ordered by the Tribunal. In case, if the Hon'ble Supreme Court decides that there is no necessity to deduct the TDS amount



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for the compensation amount, the appellant/Insurance Company is directed to deposit the said TDS amount to the credit of the claim petition. No costs. Consequently, connected miscellaneous petition is closed.

[P.V.,J.] [K.K.R.K.,J.]
25.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Additional District and Sessions Judge
(Fast Track Court),
Kumbakonam.



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