



CMP(MD) No.16347 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Eighth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice SUNDER MOHAN

CMP(MD) No.16347 of 2023

in

CMA(MD)No.167 of 2010

1 SOBIA GRACE

2 SHYBI (MINOR)

3 SHYJU (MINOR) ... PETITIONERS/RESPONDENTS 1 TO 3
(MINORS REP. BY NATURAL GUARDIAN
AND MOTHER OF 1st PETITIONER)

Vs

1 UNITED INDIA INSURANCE COMPANY LTD.,
REPRESENTED BY ITS MANAGER,
MARTHANDAM NALLOOR VILLAGE,
VILAVANCODE TALUK,
KANYAKUMARI DISTRICT. ... 1st RESPONDENT/ APPELLANTS

2 JUSTIN

3 MASANAM

4 CHELLASWAMY ... RESPONDENTS 2 TO 4/RESPONDENTS 4 TO 6

Civil Miscellaneous petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to permit



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the petitioner to withdraw the amount deposited by the 1st respondent/ appellant in MCOP No.6 of 2005 before the Motor Accidents Claim Tribunal, Sub Court, Kuzhithurai pending disposal of C.M.A(MD) No.167 of 2010 on the file of this Honourable Court.

PRAYER in CMA(MD)No.167 of 2010:

To prefer this Memorandum of Civil Miscellaneous Appeal in this Hon'ble Court against Judgment and Decree dated 22.12.2008 made in MCOP No.6/2005 on the file of the Motor Accident Claims Tribunal(Subordinate Judge) at Kuzhithurai.

ORDER : This Civil Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.JEEN JOSEPH, Advocate for the petitioner and of Mr.N.MURUGESAN, Advocate on behalf of the Respondents, the Court made the following order:-

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent Nos.1 to 3.

2.The learned counsel appearing for the appellant fairly submitted that the appellant is aggrieved only by the fact that the Tribunal had not permitted the appellant to pay and recover the award amount from the owner of the vehicle as the appellant had established the fact that the rider of the vehicle did not have valid driving licence. However, it is seen from the records that though several notices were ordered to the rider of the vehicle, notice could not be served on him. It is also seen that the appellant has deposited the entire award amount and the learned



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counsel for the appellant has no objection to withdraw 50% of the balance award amount.

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3.The learned counsel for the claimants submitted that the respondents 2 and 3, who are then minors, have now become majors.

4.The only issue in the instant appeal is whether the appellant would be entitled to recover the compensation from the fifth respondent and hence, the notice has to be necessarily issued to R5.

5.Since the entire amount has already been deposited, the respondents/claimants 1 to 3 are entitled to withdraw the balance 50% of the award amount, as apportioned by the Tribunal by filing appropriate petitions before the Tribunal.

sd/-
08/08/2024

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/08/2024

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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THE SUBORDINATE JUDGE,
MOTOR ACCIDENT CLAIMS TRIBUNAL, KUZHITHURAI.

+1 CC to M/s.T.JEEN JOSEPH, Advocate (SR-9744[I] dated 09/08/2024)

ORDER
IN
CMP(MD) No.16347 of 2023
in
CMA(MD)No.167 of 2010
Date :08/08/2024

SS/GS/SAR- /19/08/2024/4P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023