

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

C.R.P.(PD) No.1586 of 2015

And

M.P.No.1 of 2015

1.Fredrick D' Rose

2.Matilda D' Rose

... Petitioners

Vs.

1.P.Lingaraj

2.The New India Assurance Company,
Third Party Cell,
No.45, Moore Street,
Chennai – 01.

... Respondents

Prayer:

Petition has been filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.1074 of 2014 in M.C.O.P.No.1034 of 2010 dated 08.01.2015 on the file of Motor Accident Claims Tribunal, (II Additional District Court), Poonamallee.

For Petitioners : Mr.K.Varadha Kumara

For Respondents : No Appearance for R1

Mr.J.Chandran for R2

ORDER

The petitioners have come forward with this revision challenging the impugned order passed in I.A.No.1074 of 2014 in M.C.O.P.No.1034 of 2010, wherein, the prayer for exemption to pay Court fee for the amount enhanced by way of amendment was dismissed.

2.Heard both sides.

3.The learned counsel for the petitioners would submit that the petitioners herein have filed an application claiming compensation for the death of their son. First, they had filed petition claiming compensation to the tune of Rs.15 Lakhs and paid the Court fee of Rs.14,372.50. Subsequently, it was amended enhancing the claim amount to Rs.50 Lakhs in I.A.No.1087 of 2013 and a sum of Rs.35,000/- has been paid as additional Court fee. Subsequently, during the pendency of the claim petition, they again filed I.A.No.741 of 2014 enhancing the claim amount from Rs.50 Lakhs to Rs.One Crore and that application was allowed. Thereafter, they filed I.A.No.1074 of 2014 seeking exemption to pay the additional Court fee and after hearing both sides, the Trial Court

dismissed that application.

4.The learned counsel for the petitioners would further submit that in the Motor Accidents Claim Petition, the petitioners are entitled to file application claiming exemption to pay Court fee and after the award has been passed, the Court fee is ordered to be paid by the petitioner. But the Trial Court has not considered the same and dismissed the application. Hence, he prayed for setting aside the impugned order.

5.Resisting the same, the learned counsel for the second respondent/ Insurance Company would submit that the deceased person namely, the son of the petitioners herein is a Catering Steward in a Hotel in Australia and was earning a sum of Rs.85,000/- per month and hence, they can very well pay the Court fee and this factual aspect was considered by the Trial Court and the application seeking exemption to pay the additional Court fee has been rightly dismissed and prayed for dismissal of the revision.

6.Considering the submissions made by both sides and the averment in the typed set, it is true that originally, the claim petition

was filed claiming compensation of Rs.15 Lakhs and for that, the Court fee of Rs.14,372.50 was paid. Subsequently, I.A.No.1087 of 2013 was filed seeking enhancement of the claim amount from Rs.15 Lakhs to Rs.50 Lakhs and a sum of Rs.35,000/- has also been paid as additional Court fee. Subsequently, during the pendency of the claim petition, they again filed I.A.No.741 of 2014 enhancing the claim amount from Rs.50 Lakhs to Rs.One Crore and that application was also allowed on 10.04.2014. Immediately, the petitioners filed I.A.No.1074 of 2014 seeking exemption to pay the additional Court fee of Rs.50,000/- and it was dismissed.

7.In the Motor Vehicles Act, the payment of Court fee has been exempted while deciding the matter and after passing of the award, the claimant is directed to pay the Court fee for the award amount. In such circumstances, whether the deceased has earned Rs.85,000/- per month or not is immaterial to decide the fact. Hence, the impugned order passed in I.A.No.1074 of 2014 in M.C.O.P.No.1034 of 2010 dated 08.01.2015 by the Motor Accident Claims Tribunal, (II Additional District Court), Poonamallee is un-sustainable and is liable to be set aside.

8. Accordingly, this Civil Revision Petition is allowed. The order made in I.A.No.1074 of 2014 in M.C.O.P.No.1034 of 2010 dated 08.01.2015 by the Motor Accident Claims Tribunal, (II Additional District Court), Poonamallee is hereby set aside and the petitioners are exempted to pay the Court fee for the enhanced claim amount of Rs.50 Lakhs namely, Rs.50,000/-. No costs. Consequently, the connected miscellaneous petition is also closed.

19.01.2016

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Index: Yes/ No

Internet: Yes/ No

To

1. The Motor Accident Claims Tribunal,
(II Additional District Court), Poonamallee

R.MALA,J.

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