

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2294 of 2014

Kaliammal (died)

- 1.Subramani
- 2.Chinnusamy
- 3.Selvi
- 4.Saroja
- 5.Jaya

.. Petitioners

Vs.

- 1.Murugan

- 2.The United India Insurance Co Ltd.,
Divisional Officer-1, Peramanur Main Road
Salem-7.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.06.2012 made in I.A.No.134 of 2012 in M.C.O.P.No.536 of 2007 on the file of the Motor Accident Claims Tribunal (Additional District Court and Special Court for EC Act cases), Salem.

For Petitioners : Mr.C.Kulanthaivel

For R1 : No appearance

For R2 : T.Ravichandran

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 18.06.2012 made in I.A.No.134 of 2012 in M.C.O.P.No.536 of 2007 on the file of the Motor Accident Claims Tribunal (Additional District Court and Special Court for EC Act cases), Salem.

2. The petitioners are legal heirs of one deceased Kaliammal, the claimant in M.C.O.P.No.536 of 2007 on the file of the Motor Accident Claims Tribunal (Additional District Court and Special Court for EC Act cases), Salem. The claimant filed the said M.C.O.P claiming compensation for the death of her son Arumugam. Pending claim petition, the said Kaliammal died. The petitioners filed I.A.No.374 of 2011 to recognise them as legal heirs of the deceased Kaliammal/claimant and to proceed with the claim petition. The respondents did not file any counter. The learned Judge held that "Counter not filed. Both not present. Hence petition allowed subject to proof and maintainability along with main petition".

3. The petitioners filed the present I.A.No.134 of 2012 under Order VI Rule 17 of C.P.C., to permit them to amend the main petition to include them as legal representatives of the deceased Kaliammal/claimant and for consequential amendment.

4. The second respondent filed counter and opposed the said application on the ground that the deceased Arumugam was a bachelor, he died leaving his mother/Kaliammal as his only legal heir. If the petitioners are dependants of the said Arumugam, they would have been included in the original claim petition itself and prayed for dismissal of the amendment application.

5. The learned Judge, considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

6. Against the said order of dismissal dated 18.06.2012 made in I.A.No.134 of 2012, the petitioners have come out with the present Civil Revision Petition.

7. Heard the learned counsel for the petitioners as well as the

second respondent and perused the materials available on record.

8. The petitioners are seeking to be impleaded in the claim petition as the legal heirs of their mother/deceased Kaliammal, the claimant in the claim petition. The respondents have not disputed that the petitioners are the legal heirs of the deceased Kaliammal/claimant. The only objection by the respondents is that the petitioners are not the dependants of deceased Arumugam. The learned Judge accepting the said contention, dismissed the application filed by the petitioners.

9. The learned Judge, failed to see that the petitioners are not claiming to be impleaded as legal heirs of the deceased Arumugam or dependants of the deceased Arumugam. They are seeking amendment as they are legal heirs of their mother/deceased Kaliammal, the claimant in the claim petition. If the Tribunal comes to the conclusion that the deceased Kaliammal is entitled to any compensation, then the petitioners are entitled to receive the compensation payable to the deceased Kaliammal. The learned Judge also failed to consider that I.A.No.374 of 2011 filed by the petitioners to recognise them as legal heirs of the deceased Kaliammal/claimant, was allowed and the respondents have not

challenged the said order and therefore, the said order has become final. The present application is only for consequential amendment. In view of the above, the order passed by the learned Trial Judge is liable to be set aside and it is hereby set aside.

10. In the result, the Civil Revision Petition is allowed by setting aside the fair and decretal order dated 18.06.2012 made in I.A.No.134 of 2012 in M.C.O.P.No.536 of 2007. No costs.

26.10.2017

Index : Yes/No

dm/kj

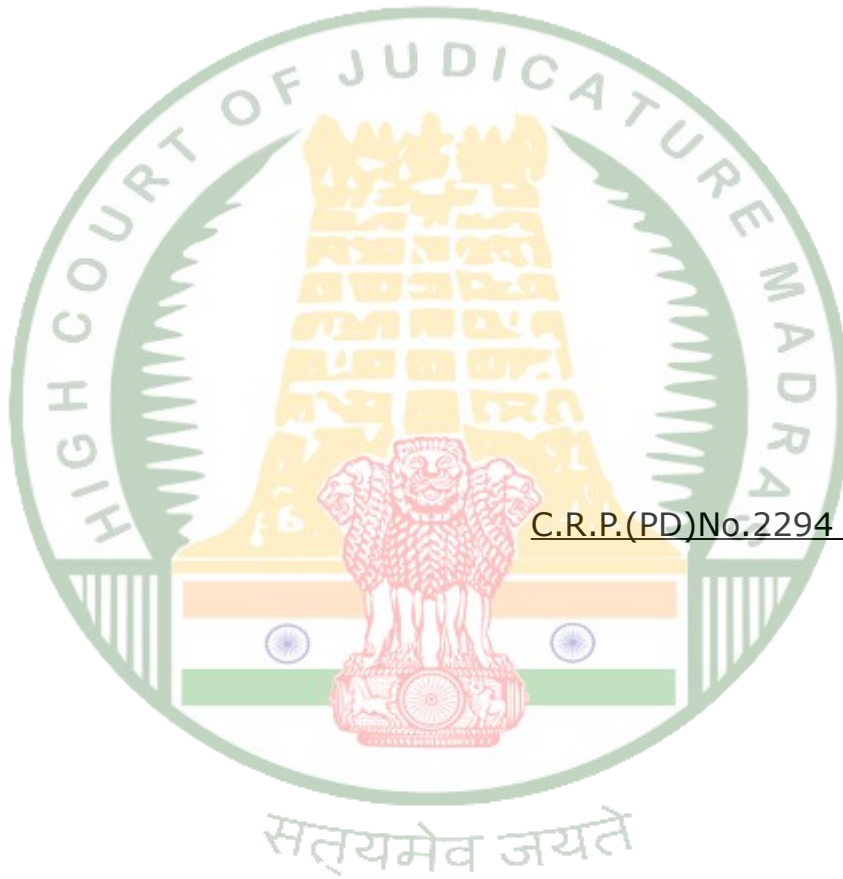
To

The Motor Accident Claims Tribunal
(Additional District Court and
Special Court for EC Act cases) Salem.

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V.M.VELUMANI, J.

dm/kj



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