

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.SURESH KUMAR

C.R.P.(PD) No.1554 of 2019

and

C.M.P.No.10157 of 2019

1.Rajeshwari
2.Venkata Krishnan
3.Indhumathi
4.Dhivyananthini

... Petitioners

Vs.

1.I.Salman Sherif
2.The Bajaj Allianz General
Insurance Company Limited,
Old No.276 & 277, New No.497 & 398, 6th Floor,
Poonamallee High Road, Arumbakkam,
Chennai - 600 106.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal dated 30.08.2017 made in M.P.No.1623 of 2017 in MCOP.No.4016 of 2015 on the file of the Hon'ble Motor Accident Claims Tribunal cum Court of II Small Causes Judge at Chennai and now transferred to the 1st Special Sub-Judge, Court of Small Causes dealing with MCOP cases.

For Petitioners
For Respondents

: Mr.P.Adhavan Seral
: Mr.J.Michael Visuvasam

ORDER

This revision petition has been filed against the fair and decretal order made in M.P.No.1623 of 2017 in MCOP.No.4016 of 2015 on the file of the MACT Cum II Small Causes Judge at Chennai and now transferred to the 1st Special Sub Judge, Court of Small Causes, by order dated 30.08.2017.

2.Before the Motor Vehicles Tribunal, MCOP.No.4016 of 2015 was filed by the petitioners to seek compensation for the deceased, out of a fatal motor accident. The 2nd respondent herein is the Insurance Company, whose vehicle involved in the accident at the time of filing the MCOP, it is the case of the petitioner that, instead of making a proper calculation of the compensation, it has been mistakenly calculated accordingly only a sum of Rs.20,00,000/- has been made in the MCOP petition as a compensation to be claimed and subsequently, they realised the mistake and accordingly, the present application was filed to enhance the said amount from Rs.20,00,000/- to Rs.34,00,000/- based on the calculation and accordingly, the said application i.e., M.P.No.1623 of 2017 was filed which was rejected by the Tribunal, as against which, the present revision has been filed.

3.Heard Mr.P.Adhavan Seral, learned counsel appearing for the revision petitioners, who is the petitioners before the Tribunal and also heard Mr.J.Michael Visuvasam, learned counsel appearing for the 2nd respondent, who is the Insurance Company.

4.The learned counsel appearing for the 2nd respondent has fairly submitted that, whatever amount claimed whether Rs.20,00,000/- or Rs.34,00,000/-, it has to be decided only by the Tribunal, considering the facts and circumstances as well as the evidences to be adduced by the claimants and therefore, the Insurance Company may not have a serious objection in making a claim whether that claim would be an inflated one or proper claim can be gone into at the time of deciding the MCOP, where the 2nd respondent/Insurance Company has reserved all its rights through proper counter.

5.In view of the stand taken by the learned counsel appearing for the 2nd respondent/Insurance Company, taking into account the circumstances of the case, this Court feels that, for making an amendment in the compensation claim in the MCOP petition, there can

be no legal impediment for the revision petitioners to act upon and therefore, in that view of the matter, this Court feels that, the impugned order is liable to be interfered with. Accordingly, the impugned order is set aside and the matter is remitted back to the Tribunal i.e., MACT cum II Small Causes Court, Chennai (presently at 1st Special Sub-Judge, Small Causes Court, Chennai) with a direction to entertain the petition to be filed in this regard by the revision petitioners for making an amendment to claim an enhanced compensation in the main MCOP. Once such petition is filed, the same shall be taken into account and needful shall be done by the Court below within a period of 30 days thereafter.

6. With this observation and direction, this Civil Revision Petition is ordered accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

20.11.2019

Index : Yes/No
Speaking Order : Yes/No

Sgl

To

The 1st Special Sub Judge,
MACT cum II Small Causes Court,
Chennai.

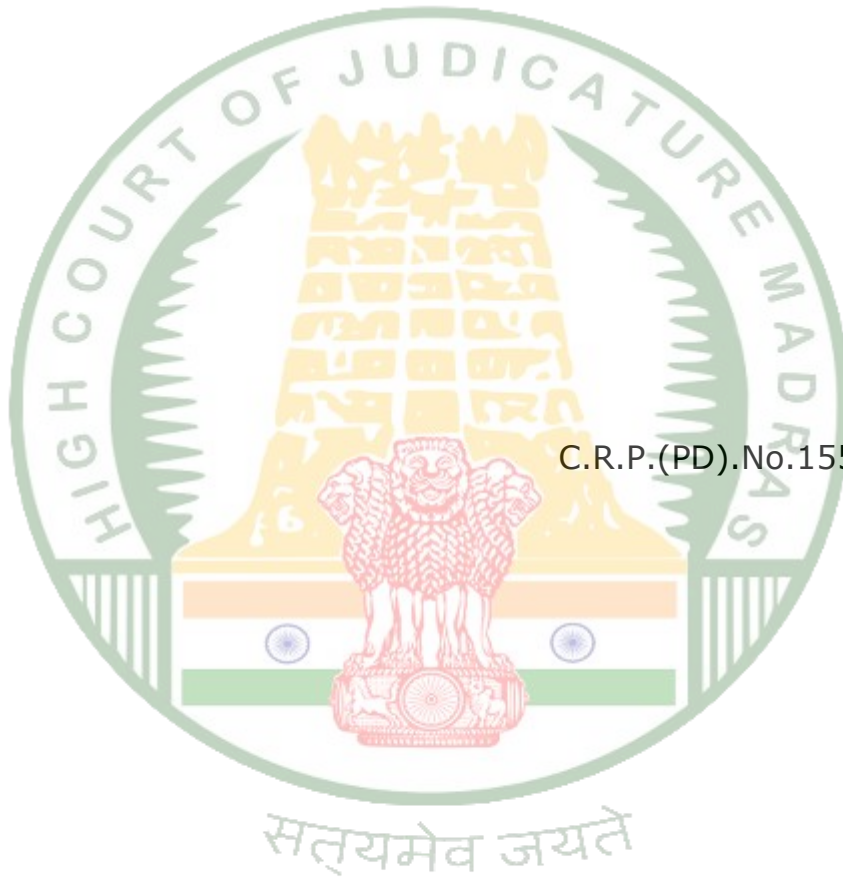


WEB COPY

C.R.P.(PD).No.1554 of 2019

R.SURESH KUMAR, J.

Sgl



C.R.P.(PD).No.1554 of 2019

WEB COPY 20.11.2019