



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**
CRP. (MD) .No.1711 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

1.Mani

2.Selva Packiam

3.Esther

...Petitioners

Vs.

1.Velayutham

2.Shri Ram General Insurance Company Limited,

Through its Branch Manager,

office at RIICO Industrial Area,

Sitapura, Jaipur,

Rajasthan.

...Respondents

PRAYER: This Petition filed under Article 227 of the Constitution of India to allow the revision and set aside the fair and decretal order dated 02.08.2012 passed in I.A.No.740 of 2012 in M.C.O.P.No.1343 of 2011, on the file of the fourth Additional District Judge, Tirunelveli.

For Petitioners : Mr.T.Selva Kumaran

For R-1 : No Appearance

For R-2 : Mr.V.Sakthivel

O R D E R

This Civil Revision Petition has been filed challenging the fair and final order passed by the Court below dismissing the application filed by the petitioners to reopen the case in order to examine the employer of the deceased and also to determine the salary that was earned by the deceased.

2. The petitioners are the claimants before the Court below. They are claiming for compensation from the respondents on the ground of the death of their son, due to the negligence of the Driver of the vehicle.

3. The case was at the stage of passing orders and at that stage, an application came to be filed to reopen the case, since the petitioners wanted to examine the employer and establish the salary that was earned by the deceased.

<https://hcservices.ecourts.gov.in/hcservices/> Court below has dismissed this application mainly



on the ground that the name of the employer has not been stated in the affidavit and even in the main petition, the status of the employment of the deceased was mentioned as 'self employer'.

5. The first respondent has been served notice in this case and his name has also been printed in the cause list and there is no representation for the first respondent.

6. Taking into consideration the facts and circumstances of the case and also of the fact that the petitioners must be given an opportunity to establish the salary of the deceased, before the compensation is ascertained, the case has to be reopened for the purpose of examining the employer. By giving such opportunity, no prejudice will be caused to the respondents and they can always cross-examine the witness, when he is in the box. In the result, the fair and final order passed in I.A.No.740 of 2012 in M.C.O.P.No.1343 of 2011, on the file of the fourth Additional District Judge, Tirunelveli, is hereby set aside. The Court below is directed to reopen the suit proceedings and placed further in accordance with law.

7. This Civil Revision Petition is disposed of with a direction to the Court below to complete the proceedings in M.C.O.P.No.1343 of 2011, within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The fourth Additional District Judge, Tirunelveli.

2.The Record Keeper, VR Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-98878[F] dated
18/11/2019)

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15.11.2019

KM/(29.11.2019) 2P 5C