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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.906 OF 2018

AND

C.M.P.NO.7510 OF 2018

Alamelu

...Appellant / Respondents-3

Vs.

1.Muthaiyan

2.Gangaiammal

...Respondents 1 & 2 / Petitioners

3.Natarajan

4.The Divisional Manager,
National Insurance Company Limited,
No.19, Officers Lane,
Vellore.

...Respondents 3 & 4 / Respondents 1 & 2

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgement dated 18.06.2014, made in M.C.O.P.No.329 of 2013, passed by the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Tiruvanamalai.

For Appellant : Mr.G.Mohammed Aseef

For Respondents 1 & 2 : Ms.A.Subadra
for M/s.M.Malar

R3 & R4 : No Appearance

J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed challenging the award dated 18.06.2014, passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvannamalai in M.C.O.P.No.329 of 2013.

2. The appellant has filed this appeal on the ground that she is the only legal representative of the deceased Ganapathy who died on 10.12.2009, as a result of the accident caused by the vehicle insured with the 4th respondent. But however, according to the appellant, based on the claim petition filed by



the respondents 1 and 2, who are the paternal uncle and paternal aunt, impugned award has been passed excluding the appellant from claiming compensation for the death of her father Ganapathy as a result of the accident.

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3. In the grounds of appeal, the appellant has also stated that during the pendency of M.C.O.P.No.329 of 2013, the 4th respondent insurance company filed I.A.No.24 of 2013 before the Tribunal seeking to implead the appellant as third respondent in the claim petition. But however, according to the appellant, without serving notice in the said application on the appellant, the Tribunal has set the appellant ex parte and gone ahead and passed the impugned award.

4. This Court, has perused and examined the death certificate dated 03.02.2010 of the deceased Ganapathy as well as the legal heir certificate dated 03.03.2010, which states that the only legal heir of the deceased Ganapathy is the appellant. The legal heir certificate of the deceased Ganapathy dated 03.03.2010 was also not marked as exhibit before the Tribunal. The appellant was admittedly not heard by the Tribunal before passing of the impugned Award.

5. This Court is of the considered view that the impugned award will have to be set aside and the matter remanded back to the Tribunal for fresh consideration in the light of the contention raised by the appellant in this appeal and in the light of the legal heir certificate produced by the appellant in this appeal. Accordingly the impugned award dated 18.06.2014, passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvannamalai in M.C.O.P.No.329 of 2013 is hereby set aside and the matter remanded back to the very same Tribunal for fresh consideration on merits and in accordance with law after hearing all the necessary parties including the appellant and all the parties are permitted to adduce further evidence in support of their respective contention. The Tribunal shall dispose of the claim petition within a period of six months from the date of receipt of a copy of this judgment. With the aforesaid directions, this appeal is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

kk



To

The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Tiruvannamalai.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.M.Malar, Advocate SR.No.49544

C.M.A.No.906 of 2018
and C.M.P.No.7510 of 2018

BR(CO)
RVM(01/12/2021)