



Review Application No.28 of 2001

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **28.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Review Application No.28 of 2001
in
C.M.A.No.3 of 2001
and
C.M.P.Nos.5090 to 5092 of 2001 & 7881 of 2005

M/s National Insurance Company Ltd.,
Divisional Office
No.III, Lakshmi Complex,
St. Mark's Road,
Bangalore – 1.

... Applicant

Vs.

1.Shoba
2.N.S.Kiran
3.N.S.Kishore
4.P.Saraswathiamma
5.A.N.Prakash
6.A.C.Nagubai
(5th respondent exparte before the Tribunal)
(Grounds amended as per order of
this Court dated 16.04.2001 in CMP No.6311/2001)

... Respondents



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PRAYER: Review Application is filed under Order 47 Rule 1 of the Code of Civil Procedure to review the Judgment and Decree dated 15.02.2001 made in CMA No.3 of 2001 on the file of this Court.

For Appellant : Mr.T.M.Venkataraman

For Respondents : Mr.Dr.S.Nagaraj

ORDER

[Order of the Court was delivered by K.KALYANASUNDARAM, J.]

Heard Mr.T.M.Venkataraman, learned counsel appearing for the applicant and Dr.S.Nagaraj, learned counsel appearing for the respondents.

2.The respondents 1 to 4 herein filed MCOP No.252 of 1989 seeking compensation of Rs.30,00,000/- for the death of one P.Sivasankar in an accident that took place on 23.10.1988, but the Tribunal has awarded Rs.13,00,000/- along with interest. Questioning the same, the Insurance Company preferred an appeal in CMA No.3 of 2001. The said appeal came to be dismissed for the reason that



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they did not get permission under Section 170 of the Motor Vehicles Act, which is mandatory at that relevant point of time. Unless the Insurance Company is permitted to take defence under Section 170 of the Motor Vehicles Act, they are not entitled to maintain the appeal. Therefore, we are of the view that there was no error apparent on the face of the record. Hence, this Review Application is dismissed.

3.It is represented that the applicant/Insurance Company has already deposited entire award amount. Hence, the claimants are permitted to withdraw their share as per the ratio fixed by the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

[M.K.K.S.,J.]

[V.S.G.,J.]

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Index : Yes/No

Speaking Order :Yes/No



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K.KALYANASUNDARAM, J.
and
V.SIVAGNANAM, J.

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Order made in
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in
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