



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

C.R.P(PD) (MD) .No. 1937 of 2021

G.Vanitha

... Petitioner/4th Respondent

Vs

1. B.Unnikrishnan

2. The Correspondent,
Muslim Arts College, Thiruvithancode,
Kalkulam Taluk, Kanyakumari District.

3. The New India Assurance Company Limited,
Rep by its Branch Manager,
Pillars Gate, Opp to Anna Stadium,
Balamore Road, Nagercoil, Agasteeswarm Taluk,
Kanyakumari District.

...Respondents/Respondents
1,2 and 3

4. Mahalingam

5. Thangamani

... Respondents 4 and
5/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the award passed in the Lok Adalat held at Nagercoil on 31.08.2013 and further direct the Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram to restore the claim petition in MCOP NO. 35 of 2007 on its file and proceed with the trial and pass award in accordance with law.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.D.Malaichamy (R3)

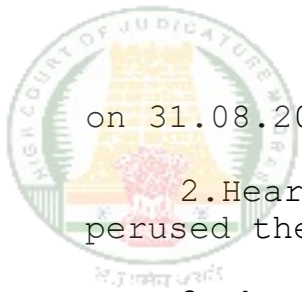
Mr.S.R.Anbarasu (R4)

R1, R5 (Died)

R2 - No appearance

ORDER

This Civil Revision Petition has been filed by the revision petitioner/R4 to set aside the award passed in the Lok Adalat held at Nagercoil on 31.08.2013 and further to direct the Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram to restore the claim petition in MCOP NO. 35 of 2007 on its file, on the ground that without impleading her in the Lok Adalat, the award was passed



on 31.08.2013.

2.Heard the learned counsel appearing for both sides and perused the materials available on record.

3.The petitioner is the wife of the deceased Pazhanikumar. The parents of the deceased Pazhanikumar had filed M.C.O.P.No.35 of 2007, on the file of Subordinate Court, Padmanabhapuram and shown the petitioner as R4. R4 was set exparte in that case. Subsequently, M.C.O.P.No.35 of 2007 was dismissed for default. Without impleading this revision petitioner/R4, the petitioners in M.C.O.P.No.35 of 2007, restored the M.C.O.P.No.35 of 2007.

4.Hence, the award passed without impleading the petitioner, who is the wife of the deceased is not valid. If any dispute between the wife and parents, it can be solved at the time of deciding M.C.O.P.

5.This petitioner has also filed another M.C.O.P.No.104 of 2012, on the file of Motor Accident Claims Tribunal (District Court), Kanyakumari, in which, the parents of the deceased were added as parties.

6.The petitioner is the contesting party in M.C.O.P.No.35 of 2007 and she is directed to file an ex-parte set aside petition and the learned Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram is directed to allow the said petition and decide the matter on merits. The petitioner is also directed to withdraw the M.C.O.P.No.104 of 2012, on the file of Motor Accident Claims Tribunal (District Court), Kanyakumari. If necessary, the respondents can file a petition for enhancement of compensation in M.C.O.P.No.35 of 2007.

7.With these directions, this Civil Revision Petition is allowed and the award passed by the Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram in the Lok Adalat on 31.08.2013, in MCOP NO. 35 of 2007, is hereby set aside.

Sd/-

Assistant Registrar (CS-I)

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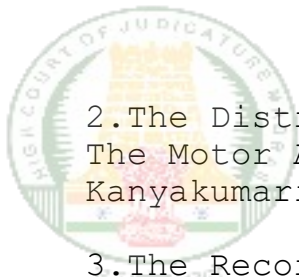
/ /2022

Sub Assistant Registrar(CS)

PNM

To

1.The Subordinate Judge
The Motor Accident Claims Tribunal (Subordinate Court),



2.The District Judge
The Motor Accident Claims Tribunal (District Court),
Kanyakumari.

3.The Record Keeper,
Vernacular Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D. MALAICHAMY, Advocate (SR-18279[F] dated
12/04/2022)

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11.04.2022

KS (CO)
KB(21.04.2022) 3P 6C