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C.R.P. (NPD) NO.734 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM:

THE HON'BLE DR.JUSTICE D.NAGARJUN

C.R.P. (NPD) NO.734 OF 2023

Parthiban

... Petitioner

Vs.

Karthik (Died)

S/o.Jaishankar

1.Jaishankar

S/o. Late Raj Gopal

2.Bhavani

3.Usharani

4.The Divisional Manager

Liberty General Insurance Co. Ltd.,

Having Office at Anmal Palani

Level 4, D-5, No.88,

G.N.Chetty Road, T.Nagar,

Chennai – 17.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the unnumbered M.C.O.P.S.R.No.10920 of 2022 in returning the petitioner by an docket order dated 25.01.2023 by the Motor Accident Claims Tribunal – cum – Principal District Judge, Vellore.

For Petitioner : Mr.C.Prabakaran



C.R.P. (NPD) NO.734 OF 2023

ORDER

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Heard Mr.C.Prabakaran, learned counsel on record representing the petitioner.

2.This Civil Revision Petition is filed by the petitioner aggrieved by the return endorsement made by the Trial Court in Unnumbered MCOP SR.No.10920 of 2022 on 25.01.2023, wherein the petition filed for seeking compensation under Section 166 of the Motor Vehicle Act, 1988, has been returned on the ground that the petition is barred by limitation as per the Amendments relating to the Motor Accident Claims which came into force on 01.04.2022.

3.Now, the learned counsel for the petitioner submits that as per the decision rendered in ***A.S.KRISHNAN VS. NAJEEB AND OTHERS [OP (MAC) No.6 of 2023 decided on 23.01.2023]*** of the High Court of Kerala at Ernakulam, his claim petition should not be returned on the ground of limitation. In this regard, it is relevant to extract para 24 of the said decision, which reads as follows:-



“ 24.As a fall out of my findings, the impugned orders are set aside, it is held that the provisions of the Limitation Act would be applicable for entertaining the petitions for claiming the compensation even beyond the period of six months, for, by taking into consideration, Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act. In other words, it is held that the claim petitions, if filed beyond the period of six months cannot be dismissed in limine.”

4.Considering the same, the Trial Court is directed to consider the claim petition filed by the petitioner in MCOP SR.No.10920 of 2022 afresh, taking into consideration of the authority of High Court of Kerala at Ernakulam and pass orders, on merits in accordance with law.

5.The Civil Revision Petition is disposed of at the admission stage itself, with the above observation and direction. No costs.



C.R.P. (NPD) NO.734 OF 2023

6.Registry is directed to return the original Petition for compensation filed by the petitioner before the Trial Court after substituting the same by a Photostat copy, to the learned counsel on record representing the petitioner.

12.04.2023

Index : Yes/No
Internet : Yes/No
TK

To

The Motor Accident Claims Tribunal
cum Principal District Judge
Vellore.



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C.R.P. (NPD) NO.734 OF 2023

DR.D. NAGARJUN, J.

TK

C.R.P. (NPD) NO.734 OF 2023

12.04.2023