



CMA.No.1341 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

Civil Miscellaneous Appeal No.1341 of 2022
and CMP No.9585 of 2022

M/s. Iffco Tokio General Insurance Company Limited,
Rep. by its Manager,
No.52-63, MEZZ ANINE Floor,
Ansals Fortune Arcade,
Sector-18, Noida, Uttar Pradesh. ... Appellant

Vs

1. Mrs.Soundarya
2. Tejas Chetty (Minor),
(2nd Respondent Minor Rep. by
Mother and NR 1st Respondent)
3. V.Srinivasan
4. M/s. APL Cargo Carriers Pvt. Ltd.,
Rep. by its Manager,
No.C-381, 1st floor, Wec.10.Noida,
Uttar Pradesh.

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5. Thilagam, Divorced W/o. Srinivasan
D.No.219, Old Sub Jail Road,
New Pet, Krishnagiri.

... Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment in MCOP No.682 of 2019, dated 17.12.2021, on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr. M.B.Raghavan
for M/s. M.B.Gopalan Associates

For Respondents : Mr.S.Murugan, for RR1 to 3

Mr.V.R.Annagandhi, for R5

R3 – Notice dispensed with

R4 – No such person

J U D G M E N T

The Insurance Company is on Appeal. Challenge is to the award in MCOP No.682 of 2019 on the file of the Motor Accident Claims Tribunal (Special District Court, Krishnagiri). The Appeal is on negligence and



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2. Notice to the fourth respondent/owner is deemed unnecessary, since the Insurance Company does not dispute its liability.

3. The Tribunal had awarded a sum of Rs.44,74,000/- for the death of one Gokulraj in a road accident that occurred on 08.09.2018. The learned counsel for the respondents would point out that the Tribunal has specifically found that no application under Section 170 of the Motor Vehicles Act was filed before the Tribunal and hence the Appeal on quantum and negligence is not maintainable.

4. We have called for the records of the Tribunal and we have examined the records. We find that no application was filed under Section 170 of the Motor Vehicles Act. It is settled law that the Insurance Company cannot maintain an Appeal in the absence of an application under Section 170 of the Motor Vehicles Act, and a Specific order being passed therein, permitting the Insurance Company to defend the claim on quantum and



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negligence.

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5. Hence the present Appeal is dismissed as not maintainable. We make no order as to costs in the Appeal. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (N.SENTHILKUMAR, J.)
16.11.2023

jv

Index: No

Internet: Yes

Speaking order

Neutral Citation: Yes

To

1.The Special District Judge
Motor Accidents Claims Tribunal,
Krishnagiri.

2.The Section Officer,
VR Section,
Madras High Court, Chennai.

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