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C.R.P.No.2191 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.2191 of 2023

- 1.Perumal
- 2.Mallika
- 3.Seetha
- 4.Boopathi

. . . Petitioners

Versus

- 1.V.Maradhasalam
- 2.United India Insurance Company Ltd.,
No.104A, Thirty Hub, 2nd Floor, Ganga Building,
Peramanur Main Road,
Salem – 636 007.

. . . Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the docket order dated 05.04.2023 made in unnumbered M.C.O.P.SR.No.3261 of 2023 on the file of the Special District Judge, M.C.O.P. Tribunal, Salem and direct the Special District Judge, M.C.O.P. Tribunal, Salem to number the claim petition.

For Petitioners : Mr.P.Jagadeesan

ORDER

Heard Mr.P.Jagadeesan, learned counsel for the petitioners and perused the records.



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2. This civil revision petition is filed by the petitioners aggrieved by the return endorsement made by the Trial Court in unnumbered M.C.O.P.SR.No.3261 of 2023 dated 05.04.2023, wherein the petition filed for seeking compensation under Section 166 of the Motor Vehicles 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 petitioners 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, the petitioners' 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



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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 petitioners in M.C.O.P.SR.No.3261 of 2023 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. There shall be no order as to costs.

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

30.06.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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DR.D.NAGARJUN, J.,

ms

To

The Special District Judge,
M.C.O.P. Tribunal,
Salem.

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30.06.2023