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C.R.P.No.4013 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4013 of 2022

1.Ramar

2.Valarmathi

3.Vijayalakshmi

4.Sujitha

5.Minor Dhanalakshmi

... Petitioners

Vs

1.Ganesan

2.The Branch Manager,
Iffco Tokkio General Insurance Co.Ltd.,
No.28, North Usman Road, T.Nager,
Chennai-600 017.

... Respondents

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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order made in Unfiled MCOP of 2022 dated 12.10.2022 on the file of the Motor Accident claims Tribunal cum Additional District Judge, Mayiladuthurai by allowing this Civil Revision Petition.

For Petitioners : Mr.T.Gobinath

For Respondent 2 : Mr.J.Michael Visuvasam

ORDER

The civil revision petition has been filed against the order passed in un-numbered MCOP of 2022. The revision petitioners filed MCOP claiming compensation due to the death of the son of petitioners 1 and 2, and brother of the petitioners 3, 4 and 5.

2.The Motor Accidents Claims Tribunal returned the application on the ground that the revision petitioners have not produced any proper legal heir certificate and the brother and sisters of the deceased victim have been included as petitioners in the application. As per the provisions of the act



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and the terms and conditions of the insurance policy, the mother of the deceased alone is entitled to claim compensation in the present case. The said position is reiterated by the Hon'ble Supreme Court of India, in the case of ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***2009 ACJ 1298*** as follows:

“In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father.”

3. Therefore, the second petitioner, who is the mother of the deceased accident victim, alone is to be impleaded as petitioner for the purpose of claiming compensation under the insurance policy. The learned counsel appearing on behalf of the second respondent insurance company has no objection to implead the second petitioner Tmt.Valarmathi as an applicant in the MCOP proceedings.



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4.This being the factum established, this Court does not find any perversity in respect of the order passed by the Motor Accident Claims Tribunal not entertaining the MCOP filed by the revision petitioners by impleading unnecessary parties. Accordingly, the MCOP is restricted only with reference to the second petitioner Tmt.Valarmathi and the names of the other petitioners in serial no.1, 3, 4 and 5 are to be deleted and the Trial Court shall proceed with the Motor Accident Claim Petition by following the procedures as contemplated.

5.Thus, the MCOP is directed to be numbered if the papers are otherwise in order in respect of Tmt.Valarmathi/second petitioner in the application. With these directions, the Civil Revision Petition stands **disposed of**. However, there shall be no order as to costs.

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Speaking Order

Internet : Yes

Index: Yes

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Copy to:
Motor Accident claims Tribunal cum
Additional District Judge, Mayiladuthurai.



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S.M.SUBRAMANIAM, J.

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