



CMA.No.673 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.673 of 2017

and

CMP.No.5070 of 2017

The Branch Manager,
M/s. New India Assurance Co. Ltd.,
Kukreja House, No.19/1, 1st Floor,
Kumara Krupa Road, Jangalore – 560 001.

...Appellant

Vs.

1. Geetha @ Baby
2. Minor Lavanya @ Geetha
3. Lakshmamma
4. Saradha
Minor Rep. By N.F. Mother Geetha @ Baby
5. B.Jayalakshmi
6. Byattappa

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.593 of 2013 on 24.02.2016 on the file of the Learned Motor Accident Claims Tribunal (Special District Judge) at Krishnagiri District.



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For Appellant : Mr.J.Chandran

For Respondents : No Appearance, for R1 to R6

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the judgment and decree passed in M.C.O.P.No.593 of 2013 dated 24.02.2016 on the file of the Motor Accident Claims Tribunal (Special District Judge) at Krishnagiri District.

2. The case of the appellant is that, the claimants/respondents 1 to 4 filed a claim petition claiming a compensation of Rs.8,00,000/- on the ground that, on 26.03.2006 at about 4.30 hours, when the deceased Raja was driving the Tanker Lorry bearing Regn.No.KA-01-AB-9299 as per the direction of the 5th respondent/owner of the vehicle, insured with the appellant, the said vehicle lost the control and fell on the roadside pit, as a result of which, the said Raja died on spot. Thereby, the respondents 1 to 4/claimants, being the dependents of the deceased filed a claim petition claiming compensation for the death of the deceased Raja. After contest, the



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tribunal, vide impugned judgment awarded a compensation of Rs.3,24,500/- in favour of the claimants. Challenging the same, the insurer has preferred this Appeal.

3. Learned counsel appearing for the appellant/insurance company submitted that the claim petition is not maintainable as with regard to the very same death, the father and mother of the deceased had filed a claim petition in WC.A.No.18 of 2007 before the Workman's Compensation Court and the Deputy Commissioner of Labour awarded a compensation of Rs.4,07,700/- and, therefore, the second claim petition is not maintainable. It is the further submission of the learned counsel that the factum of marriage of the deceased with the said Geetha @ Baby, who filed MCOP No.593/2013 had been suppressed by the parents of the deceased. The said facts have not been properly appreciated by the Tribunal, which requires interference.

4. Though notice was served on the respondents and their names were printed in the cause list, however, none appeared on their behalf.



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Considering the period of pendency of the appeal, this Court is inclined to dispose of the same based on the materials placed on record.

5. There is no quarrel that the accident happened in the year 2006 for which the parents of the deceased filed a claim petition in WC.A.No.18 of 2007 before the Workman's Compensation Court and the Deputy Commissioner of Labour awarded a compensation of Rs.4,07,700/-. The said fact is a matter of record and cannot be disputed. The deceased is married to the 1st claimant in MCOP No.593/2013 and suppressing the claim made by the parents of the deceased before the Workmen's compensation Court, the claimants herein have filed a claim petition, which is not maintainable and, therefore, the award passed by the Tribunal is erroneous and the same cannot be sustained.

6. Accordingly, the award dated 24.02.2016 passed in M.C.O.P.No.593 of 2013 by the Motor Accident Claims Tribunal (Special District Judge), Krishnagiri is set aside and this appeal is allowed. However, liberty is granted to the claimants/respondents 1 to 4 to work out



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their remedy before the appropriate civil court with regard to receipt of share of the compensation paid to the parents of the deceased. No costs.

Consequently, the connected Miscellaneous petition stands closed.

22.11.2023

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

Copy to:

1. The Motor Accident Claims Tribunal (Special District Judge)
Krishnagiri District
2. The Section Officer,
VR Section, Madras High Court.



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M.DHANDAPANI., J.

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