



C.R.P.No. 4707 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4707 of 2023

and

C.M.P.No.27962 of 2023

1. Deivanai

Minor Arunpandiyan (died)

2. Simran

Pachiyammal (died)

... Petitioners

-Vs-

1. Jayanthi

2. The Divisional Manager,
United India Insurance Co. Ltd.,
Cuddalore Dt.

...Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 08.04.2022 made in I.A.No.943 of 2021 in M.C.O.P.No. 108 of 2009 on the file of Subordinate Judge, Gingee.



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For Petitioners : Mr.C.Munusamy

ORDER

Challenging the impugned order passed in I.A.No.943 of 2021 in M.C.O.P.No. 108 of 2009 passed by the learned Subordinate Judge, Gingee, the Revision Petitioners/petitioners preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the tribunal, notice to the respondents is dispensed with.

3. Before the tribunal, to prove the treatment given to the deceased, the Revision Petitioners, who are legal heirs of deceased Pandu @ Pandurangan, filed an application in I.A.No.943 of 2021 praying to examine the doctor, who gave treatment to the deceased. That application was dismissed by the tribunal stating that the petitioner has not produced entire discharge summary in respect of treatment given to him, without which, the permission sought by him is not accepted. Moreover, through



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the Post-mortem certificate, the reason for the death can be assigned. But, the tribunal failed to consider the same. Aggrieved over the same, the revision petitioners preferred this civil revision petition.

4. The learned counsel for revision petitioners would submit that due to the grievous injury sustained in the accident, the deceased Pandu @ Pandurangan was undergone treatment and continuously he was under treatment. In spite of the treatment, he was not recovered and died subsequently. Therefore, to prove the continuous treatment given to the deceased, the necessity arose for the claimants to examine the doctor. Hence, they prayed to set aside the findings of tribunal.

5. On perusal of records, it reveals that in the year of 2009, the legal heirs of deceased filed a petition for claiming compensation and as on date, it is pending for enquiry. So far, some of the witnesses were examined on the side of revision petitioners, however, to prove the continuous treatment given to the deceased, they wanted to examine the doctor. Admittedly, at the time of accident, he sustained injury, but nearly about 3 years later, he died. As per the contention of revision petitioners/claimants, the reason for the death is due to the injury sustained



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by deceased in the said accident. So, the revision petitioners/claimants are bound to prove the same. If they are not permitted to examine Doctor, the truth cannot be come out. But the tribunal failed to appreciate the facts and erroneously dismissed the application and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of tribunal in I.A.No.943 of 2021 in M.C.O.P. No.108 of 2009 is set aside and the said application is ordered to be allowed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Subordinate Judge, Gingee.



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T.V.THAMILSELVI, J.

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