



C.R.P.(MD) No.51 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

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THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.51 of 2022

and

C.M.P.(MD) No.250 of 2022

M/s.The Oriental Insurance Co. Ltd.,
Represented through its
Divisional Manager,
16, North Veli Street,
K.J.R.Complex,
Madurai 625 001.

... Petitioner

Vs.

1.Panaiyammal

2.S.Sinthu

3.Chittammal

4.M/s.United India Insurance Company Ltd.,
No.7-A, West Veli Street,
Madurai – 625 001.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 27.10.2021 in I.A.No.1759 of 2019 in M.C.O.P.No.678 of 2017 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Madurai.



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For Petitioner : Mr.E.Chandrasekaran

For R1 to R3 : Mr.K.Kumaravel

For R4 : Mr.C.Jawahar Ravindran

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ORDER

This Civil Revision Petition is preferred by the petitioner/Insurance Company, to set aside the impugned order dated 27.10.2021 passed by the learned Special District Judge, Motor Accident Claims Tribunal (Special District Court to deal with Motor Accident Cases), Madurai in I.A.No.1759 of 2019 in M.C.O.P.No.678 of 2017.

2. The petitioner is the second respondent in M.C.O.P.No.678 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Court to deal with Motor Accident Cases), Madurai [hereinafter referred to as “Tribunal” for brevity]. The said M.C.O.P. was filed by the first to third respondents/claimants for compensation of Rs.15,00,000/- for the death of one Sekar who died in a Motor Accident on 26.09.2016 at about 15.00 hrs in Keelaiyur – Attapatty Road, near Samathuvapuram, Melur Taluk.

3. During the pendency of the above M.C.O.P., the petitioner/Insurance Company filed I.A.No.1759 of 2019 to implead the insurer of the motorcycle



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road by the deceased Sekar bearing registration number TN 59 BV 5700 by stating that there is a contributory negligence on the part of the deceased Sekar, the rider of the motorcycle.

4. The claim of the petitioner/Insurance Company was resisted by the first to third respondents/claimants stating that the said application was filed belatedly and there is no contributory negligence on the part of the rider of the motorcycle i.e. deceased Sekar.

5. The Tribunal in the impugned order has stated that there is no evidence to prove the contributory negligence on the part of the deceased Sekar, the rider of the motorcycle and therefore it not necessary to implead the insurer of the motorcycle and accordingly dismissed the I.A.No.1759 of 2019 filed by the petitioner/Insurance Company.

6. Assailing the impugned order, the petitioner/Insurance Company preferred this Civil Revision Petition stating that in another claim petition in M.C.O.P.No.677 of 2017 filed by the other claimants, arising out of the same accident, the insurer of the motorcycle was impleaded as a party and therefore, the impugned order passed by the Tribunal is liable to be set aside.



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7. On going through the records, it is found that the other claimants in M.C.O.P.No.677 of 2017 impleaded the insurer of the motorcycle stating that there was a contributory negligence. Whether the petitioner/Insurance Company is liable to pay the compensation or the fourth respondent/Insurance Company who insured the motor cycle rode by the deceased Sekar, is liable to pay the compensation to the claimants can be ascertained only at the time of recording evidence put forth by the respective parties.

8. No prejudice would be caused to the first to third respondents/claimants if the fourth respondent Insurance Company is impleaded in the M.C.O.P. Therefore, the impugned order passed by the Tribunal is set aside. Therefore, the Tribunal is directed to implead the fourth respondent herein as one of the respondents in M.C.O.P.

9. Considering the submissions made by the learned counsel for the first to third respondents/claimants, the Tribunal is directed to dispose of the matter on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.



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WEB COPY 10. Accordingly, this Civil Revision Petition is allowed. No cost.

Consequently, connected Miscellaneous Petition is closed.

11.07.2023

NCC :Yes/No
Internet: Yes/No
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To

The Special District Judge,
Motor Accident Claims Tribunal
(Special District Court to deal
with Motor Accident Cases),
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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