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CMA.No.2457 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2457 of 2022

1. B.Pankajam

B.Krishna Kumar (Died)

... Appellants

(Cause title accepted vide orders dated 18.03.2022 made
in CMP No.4286/2022 in CMA SR.No. 8620/2022)

VS.

1. S.Manohar

2. The United India Insurance Co. Ltd.,

25A, 3/2, II Floor, Ami Midtown,

D.B.Road, R.S.Puram,

Coimbatore - 641 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 19.06.2017 in M.C.O.P.1684/2013 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore.

For Appellants : Mr.N.Ishtiaq Ahmed

For R2 : Ms.I.Malar

J U D G M E N T

Challenging the Award, dated 19.06.2017 passed by the Motor Accident Claims Tribunal, Coimbatore in M.C.O.P.1684/2013, the present Civil Miscellaneous Appeal is filed by the claimants.



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2. A perusal of the records shows that the claimants have filed the claim petition under Section 166(1)(c) of the Motor Vehicles Act, 1988. Since the claimants did not file any oral or documentary evidence, the Tribunal converted the claim petition as one under Section 140(2) of the Motor vehicles Act and awarded a sum of Rs.50,000/- to them.

3. Heard Mr.N.Ishtiaq Ahmed, learned counsel for the appellants and Ms.I.Malar, learned counsel appearing for the second respondent.

4. Mr.N.Ishtiaq Ahmed, learned counsel for the appellants contended that the son of the claimants, Boopalan died just four days prior to the date of passing of decree and Judgment by the Special Subordinate Judge, Coimbatore in M.C.O.P.1684/2013 and therefore the appellants could not attend the Court for adducing evidence. Therefore, he prayed for remitting the matter back to the Tribunal for the purpose of affording the claimants an opportunity to let in evidence.



5. Per contra, Ms.I.Malar, learned counsel appearing for the second respondent contended that the documents have not been filed before this Court and therefore there is no question of remitting the matter back to the Tribunal.

6. A perusal of the records filed along with C.M.P.11437/2024 shows that a copy of the FIR, final report and medical bills were filed. In the circumstances, the orders passed by the Tribunal is liable to be set aside and the case is remitted back to the same Tribunal to consider the claim petition on merits and in accordance with law after giving sufficient opportunity to both the parties to let in evidence. The claimants shall appear before the Tribunal within a month from the date of receipt a copy of this order and the Tribunal shall dispose of the case on merits within a period of three months thereafter.

7. In the result,

- i. This Civil Miscellaneous Appeal is allowed. No costs.
- ii. The Award, dated 19.06.2017 in M.C.O.P.1684/2013
on the file of the Motor Accident Claims Tribunal /



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Special Subordinate Judge, Coimbatore is set aside.

- iii. M.C.O.P.1684/2013 is remitted back to the Motor Accidents Claims Tribunal / Special Subordinate Judge, Coimbatore to consider the claim petition afresh in accordance with law.
- iv. The appellants / claimants shall appear before the Tribunal, within a period of one month from the date of receipt of a copy of this order/uploading of the order.
- v. The Motor Accidents Claims Tribunal / Special Subordinate Judge, Coimbatore is directed to afford sufficient opportunity to the parties concerned to adduce evidence and dispose of the case within a period of three months thereafter in accordance with law.

02.09.2024
(2/2)

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

1.The Motor Accidents Claims Tribunal



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/ Special Subordinate Judge,
Coimbatore.

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2. The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

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