



C.R.P.No.651 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.R.P.No.651 of 2023

L.Suganthi (Since deceased)

N.Ranibai (Since deceased)

B.Nagaiah (Since deceased)

1. L.Bakthavachalam

Minor L.Nithish Kumar (Since deceased) ...Petitioners / Claimants

vs.

1. D. Santhalingam

2. Royal Sundaram Alliance Insurance Co Ltd.,

No.6, 1st street, Sorento Building, Lattice Bridge Road,

Adyar, Chennai – 600 020. ...Respondents / Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order vide M.P.No.3 of 2022 in M.C.O.P.No.2 of 2012 dated 21.04.2022 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.A.A. Venkatesan

For Respondents : Mr.M.Krishnamoorthy for R2



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ORDER

The 4th claimant in M.C.O.P.No.2 of 2012 has preferred this Civil Revision Retition against the order passed in M.P.No.3 of 2022 in M.C.O.P.No.2 of 2012 dated 21.04.2022 on the file of Motor Accident Claims Tribunal / The Chief Judge, Court of Small Causes, Chennai.

2. Heard Mr.A.A.Venkatesan, learned counsel appearing for the petitioner and Mr.M.Krishnamoorthy, learned counsel appearing for the 2nd respondent.

3. Originally, the claimants had filed a petition in M.C.O.P.No.2 of 2012 claiming compensation of Rs.25,00,000/- for the death of N.Lakshmi Narayana Prasad @ Prasad (Father of 4th and 5th petitioner) in a road traffic accident that took place on 09.10.2011.

4. The Tribunal passed an award for a sum of Rs.12,41,600/- on 18.11.2016 and the second respondent deposited a sum of Rs.16,58,889/- inclusive of interest and costs. Meanwhile, the first claimant (mother of the revision petitioner) died on 12.10.2012, the 2nd petitioner died on



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18.09.2016, the 3rd petitioner (Grandfather of the 4th petitioner) died on 14.05.2018 and the 5th petitioner (Brother of the 4th petitioner) died on 05.06.2021.

5. It appears that the legal heirs of the 2nd petitioner (N.Ranibai) filed an application in M.P.No.1 of 2020 was dismissed as withdrawn on 07.04.2022. Share of the 2nd petitioner (Rs.2,52,388/- inclusive of interest) and 5th petitioner (Rs.6,64,955/- inclusive of interest) are lying in the Court deposit.

6. The revision petitioner/claimant No.4 had filed the application to withdraw the respective share amount together with interest was dismissed by the Tribunal stating that the 4th petitioner cannot claim the amounts of the 2nd and 5th petitioner in the absence of the legal heirship certificate for the deceased 5th petitioner L.Nithish Kumar.

7. On perusal of the claim petition, it appears that one Lakshmi Narayanaa Prasad @ Prasad son of B.Nagaiah aged about 45 years died in a road traffic accident and his legal heirs namely his wife, his parents and two sons filed M.C.O.P.No.2 of 2012. The legal heirship certificate



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dated 10.05.2012 issued pursuant to the death of the abovesaid deceased Lakshmi Narayana Prasad indicates that the claimants no.1 to 5 are his legal heirs. The claimant no.2 N.Ranibai, mother of the deceased and claimant no.5 L.Nithish Kumar, younger son of the deceased passed away on 18.09.2016 and 05.06.2021 respectively. Award was passed on 18.11.2016. The factum of death of the 1st petitioner alone was recorded and the death of the other claimants were not recorded in the M.C.O.P and the compensation was apportioned to the 2 to 5 claimants.

8. The learned Chief Judge of Court of Small Causes, Chennai for want of succession certificate has chosen to dismiss the application.

9. Whether compensation can be termed as debt within the meaning of Section 214 of the Indian Succession Act, 1925 is the moot question. For better understanding, Section 214 (1) of Indian Succession Act is extracted hereunder:

“a) Pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effect of the deceased person or to any part thereof, or

b) Proceed, upon an application of a person claiming to



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be so entitled to execute against such a debtor a decree or order for the payment of his debt, except on the production, by the person so claiming of..."

10. Debt is a sum of money which is payable or will become payable in the future. Whereas in M.C.O.P., the compensation is awarded in a motor accident case for the loss suffered by the dependents. Therefore, the compensation would not fall within the ambit of debt. I am of the considered view that, succession certificate is necessary in case of debt due to a deceased person. The present revision petitioner is the only surviving person. The legal heirship certificate of the deceased Lakshmi Narayana Prasad has also already been produced. Upon consideration of the facts that the 2nd and 5th claimants passed away and the other two claimants are also no more, the revision petitioner is entitled to receive the share amount of the 2nd and 5th claimants who are the grandmother and brother of the revision petitioner. For the abovesaid reasons, the impugned order is necessarily to be interfered with.

11. In the result, this Civil Revision Petition stands allowed. Sequel to this, the order passed in M.P.No.3 of 2022 dated 21.04.2022 stands set aside. There is no order as to costs.



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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Cases : Yes/No
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R.KALAIMATHI, J.

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To

The Motor Accident Claims Tribunal,
The Court of Small Causes, Chennai.

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