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C.M.A. No.663 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.663 of 2021

1. Saraswathy,
2. Sureshkumar
3. Kavitha

.... Appellants

vs.

1. P. Praveen Kumar
2. S. Puvikumar
3. M/s.The National Insurance Company Ltd.,
Division No.10,
Flat No.101-106,
N-1, BMC House,
Connaught Place,
New Delhi – 110 001. .

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the fair and decretal order dated 20.02.2017 passed in MCOP No.244 of 2014 on the file of Motor Accident Claims Tribunal at Coimbatore (Spl. Sub Court, Coimbatore).

For Appellants
For Respondents

:Mr.K. Myilsamy
:R1 & R2 – No appearance
R3 – Ms.R. Sreevidhya



JUDGMENT

WEB COPY This appeal has been filed by the claimants aggrieved by the impugned award, wherein the compensation has been awarded in favour of the claimants only under the “no fault liability”, though the appellants claim that they are entitled for full compensation as per Section 166 of the Motor Vehicles Act.

2. Heard Mr.K. Myilsamy, learned counsel for the appellants and Ms.R. Sreevidhya, learned counsel for the 3rd respondent / Insurance Company. Despite service of notice on the respondents 1 and 2, they have chosen not to enter appearance in this appeal.

3. This Court has perused and examined the impugned award as well as the materials and evidence available on record before the Tribunal.

4. As seen from the impugned award, only based on the fact that the appellants have not let in any oral or documentary evidence, the award has been passed under the “no fault liability”. The appellants have categorically pleaded before this Court that they are entitled to full compensation under the provisions of Section 166 of the Motor Vehicles



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Act and the Tribunal has erroneously granted compensation under the “no fault liability” provision. The appellants have also pleaded that they are having all documentary evidence to prove that they are entitled for compensation under Section 166 of the Motor Vehicles Act. Admittedly, in the case on hand, the witnesses of the appellants/ claimants were not examined. However, the Tribunal based on the available materials without any evidence has awarded compensation to the appellants / claimants under the “no fault liability”, though the appellants have categorically pleaded that they are entitled to claim compensation as per the provisions of Section 166 of the Motor Vehicles Act. Being a welfare legislation, the claimants / appellants will have to be granted with one more opportunity for them to adduce the evidence to enable them to prove their claim that they are entitled for compensation as per the provisions of Section 166 of the Motor Vehicles Act.

5. No prejudice would be caused to the respondents, if the matter is remanded back to the Tribunal for fresh consideration on merits and in accordance with law.

6. For the foregoing reasons, the impugned award, dated



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20.02.2017 passed by the Special Sub Court, Coimbatore in MCOP

No.244 of 2014 is hereby set aside by this Court and the matter is remanded back to the very same Tribunal for fresh consideration on merits and in accordance with law. The Tribunal is directed to pass a final award, within a period of six months from the date of receipt of a copy of this judgement. No costs.

7. Since the matter is remanded, in case, the Tribunal holds the Insurance Company is liable to pay compensation to the claimants, the Tribunal is directed not to levy interest for the period from the date of the impugned award, till this date.

22.04.2024

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

vsi2



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ABDUL QUDDHOSE, J.

vsi2

To

1. The Special Sub Judge,
Special Sub Court,
Motor Accidents Claims Tribunal,
Coimbatore.
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

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