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C.M.A.No.3379 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.3379 of 2021 and C.M.P. No.19477 of 2021

United India Insurance Co. Ltd.,
Division Office,
139, Kumaran Road,
Tiruppur - 641 018.

.. Appellant

vs.

1.Jothi (died)

2.Gowri Meena

3.A.Akbar Ali

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 27.01.2020 made in M.C.O.P. No.522 of 2014 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sathiyamangalam.

For Appellant : Mr.J.Chandran

For Respondents : R1-died
Mr.R.Nalliappan for R2
R3-NDW vide Court order dated 09.02.2024



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JUDGMENT

This appeal has been filed by the appellant/Insurance Company, challenging the award, questioning its liability to pay compensation to the second respondent/claimant on the ground that the second respondent/claimant is not a legal representative of the deceased Saranya, who died as a result of an accident caused by a vehicle, insured with the appellant/Insurance Company.

2.The appellant/Insurance Company has also challenged the award, questioning the quantum of compensation, awarded by the Tribunal. The following are the un-disputed facts:

a)The second respondent/claimant was brought on record as a legal representative of the deceased Jothi, who was the original claimant;

b)Jothi is the mother of the deceased Saranya, who died as a result of the accident caused by the vehicle, insured with the appellant/Insurance Company;

c)The second respondent/claimant is the sister of the deceased Saranya;

d)The Claim Petition was filed by Jothi, the mother of Saranya,



who was the accident victim;

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e) There is no pleading in the amended Claim Petition with regard to the claim made by the second respondent/claimant that she is the legal representative and was the dependent of the deceased Saranya, who died as a result of the accident caused by the vehicle, insured with the appellant/Insurance Company.

3. The amended Claim Petition produced by the learned counsel for the second respondent/claimant does not reveal that the second respondent/claimant is the dependent of the deceased Saranya as there is no pleading to that effect in the amended Claim Petition. In view of the above mentioned un-disputed facts, the Tribunal, without any evidence in support of the second respondent's/claimant's contention that she is the legal representative and the dependent of the deceased Saranya, has directed the appellant/Insurance Company to pay the determined compensation to the second respondent/claimant.

4. However, the second respondent/claimant must not be left in lurch if she is able to prove through oral and documentary evidence that



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she is the dependent of the deceased Saranya, who died as a result of the accident caused by the vehicle, insured with the appellant/Insurance Company.

5. Being a beneficial legislation to protect accident victims and to give one more opportunity to the second respondent/claimant to prove her claim that she is entitled for compensation on account of the fact that she is the dependent of the deceased Saranya, this Court deems it fit to set aside the impugned award and remand the matter back to the very same Tribunal for fresh consideration, on merits and in accordance with law, after affording an opportunity for both the parties to let in additional oral and documentary evidence in support of their respective contentions.

6. For the foregoing reasons, the impugned award passed by the Motor Accidents Claims Tribunal in M.C.O.P. No.522 of 2014 is hereby set aside and the matter is remanded back to the very same Tribunal i.e. the Motor Accidents Claims Tribunal, the Sub Court, Sathiyamangalam for fresh consideration, on merits and in accordance with law. Both the parties are permitted to let in additional oral and documentary evidence to substantiate their respective contentions. The Tribunal shall, after giving



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due consideration to the same, pass a final award within a period of four months from the date of receipt of a copy of this judgment.

7.Since the pleadings were not amended subsequent to the second respondent/claimant coming on record as the claimant in the Claim Petition, the second respondent/claimant is permitted to amend the pleadings and the appellant/Insurance Company is also permitted to rebut the same through an additional counter. The Tribunal is directed to allow the second respondent/ claimant to amend the pleadings, based on an appropriate application to be filed by the second respondent/claimant. Accordingly, this appeal is disposed of. No costs. Consequently, connected petition is closed.

11.06.2024

vga

To

- 1.The Motor Accidents Claims Tribunal,
The Sub Court, Sathiyamangalam.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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ABDUL QUDDHOSE, J.

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