



WEB COPY



C.M.A. No.1879 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1879 of 2022

and

C.M.P. No.13717 of 2022

The Divisional Manager,
United India Insurance Co. Ltd.,
Divisional Office,
No.2, Dr. Sankaran Road,
Namakkal – 637 001.

.... Appellant

vs.

1. Chinnapappa
2. S. Gunasekaran
3. S. Mohankumar
4. M/s.VKS Transports
234, Salem Main Road,
Namakkal,
Tamil Nadu.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P. No.694 of 2014 on 27.08.2019 on the file of the learned Motor Accidents Claims Tribunal, (Special District Judge) at Dharmapuri.

For Appellant : Mr.J. Chandran

For Respondents : Mr.Kumaravelan for
R1 to R3
R4 – Dispensed with



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JUDGMENT

This appeal has been filed by the Insurance Company challenging its liability to pay compensation as determined by the Tribunal under the impugned award.

2. Heard Mr. J. Chandran, learned counsel for the appellant / Insurance Company and Mr.Kumaravelan, learned counsel for the respondents / claimants.

3. The respondents / claimants prior to the filing of the claim before the Motor Accidents Claims Tribunal seeking compensation for the death of one Sivakumar had earlier approached the Commissioner under the Workmen's Compensation Act in W.C. No.228 of 2011. It is also an admitted fact that the Commissioner under the Workmen's Compensation Act had passed an order in favour of the respondents / claimants awarding compensation in respect of the very same accident which resulted in the death of Sivakumar. It is also an admitted fact that after obtaining an order under the Workmen's Compensation Act in their favour, they have once again approached the Motor Accidents Claims Tribunal seeking compensation. As seen from the evidence available on record, despite the Workmen's Compensation order passed in W.C. No.228 of 2011 was placed on record and were marked as Exhibits R1



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and R2, the Tribunal ignoring Section 167 of the Motor Vehicles Act which prohibits a claimant from seeking compensation under the Motor Vehicles Act, when he had already obtained an award of compensation under a different statute, which in the instant case is the Employee's Compensation Act.

4. Section 167 of the Motor Vehicles Act, 1988 reads as follows :-

167. Option regarding claims for compensation in certain cases. - Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both.

5. The law is now well settled through various decisions including the decision of the Hon'ble Supreme Court in the case of ***Reliance General Insurance Co. Ltd. v. Shashi Sharma reported in 2016 9 SCC 627*** that once a claimant has been awarded compensation involving the very same accident under the Workmen's Compensation Act, he cannot



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seek compensation once again before the Motor Accident Claims Tribunal under Section 166 of the Motor Vehicles Act.

6. In the case on hand, admittedly the respondents / claimants have obtained an order under the Employee's Compensation Act in W.C. No.228 of 2011 involving the very same accident. However, once again they have approached the Motor Accident Claims Tribunal seeking compensation under Section 166 of the Motor Vehicles Act involving the very same accident, which resulted in the death of Sivakumar. The claim before the Motor Accident Claims Tribunal by the respondents / claimants would amount to duplication and is legally barred as per the provisions of Section 167 of the Motor Vehicles Act, as extracted supra. The claimants are entitled to seek compensation either under the provisions of the Employee's Compensation Act or under the provisions of the Motor Vehicles Act and they are not entitled to seek compensation under both the statutes. Despite the statutory bar, the respondents / claimants have approached the Motor Accidents Claims Tribunal and the Tribunal has also erroneously by total non application of mind to the settled law and to the statutory provision viz., Section 167 of the Motor Vehicles Act, 1988 has entertained the claim and has also passed an award granting compensation to the respondents / claimants.



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7. For the foregoing reasons, the impugned award has to be set aside and this appeal will have to be allowed. Accordingly, the impugned award, dated 27.08.2019 passed in M.C.O.P. No.694 of 2014 passed by the Special District Court, (Motor Accidents Claims Tribunal), Dharmapuri, is hereby set aside and this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

8. It is made clear that if the appellant / Insurance Company had deposited any amount before the Tribunal pursuant to the passing of the impugned award, they are permitted to withdraw the same by filing an appropriate application before the Tribunal.

30.07.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2



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ABDUL QUDDHOSE, J.

vsi2

To

1. The Special District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

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