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C.M.A.No.136 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.136 of 2020

And

C.M.P.No.922 of 2020

M/s.Oriental Insurance Company Limited
Erode.

... Appellant

Vs.

1.G.Krishnamurthy
2.M.Meganathan
3.S.Eswaramoorthy

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.168 of 2018 dated 12.02.2019 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Kangayam.

For Appellant : Mr.E.Rajadurai
for M/s.M.B.Gopalan Associates
For Respondents : R1 & R2 – No Appearance
R3 – NDW

J U D G M E N T

The third respondent before the Motor Accidents Claims Tribunal



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is the appellant herein. This appeal has been filed against the judgment and decree dated 12.02.2019 passed by the Motor Accidents Claims Tribunal, Subordinate Court, Kangayam, in M.C.O.P.No.168 of 2018.

2.The learned counsel appearing for the appellant submitted that the first respondent claimant is the cousin of the deceased. On 08.02.2010 at about 6.00 a.m., the deceased was walking from South to North on the Western edge of the South-North Vellakovil to Muthur Main Road opposite to R.K.Rice Mill, Ayyampalayam. At that time, the second respondent drove the vehicle insured with the appellant in a rash and negligent manner and dashed against the deceased, due to which the deceased died on the spot. Thereafter the claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs and after adjudication, the Tribunal awarded a sum of Rs.5,45,000/- as compensation to the claimant along with interest at 7.5% p.a. from the date of petition till the date of deposit and directed the appellant to deposit the amount.

3.The learned counsel appearing for the appellant further



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submitted that though the first respondent claim that he is the cousin of the deceased, he did not produce any legal heir certificate issued by the revenue officials or by the competent civil Court before the Tribunal, however, the tribunal accepted the certificate issued by the Village Administrative Officer and awarded compensation in favour of the first respondent, which is not sustainable one. The learned counsel further submitted that the Village Administrative Officer or any local Authority do not have power to issue legal heir certificate and hence, the impugned judgment and decree warrants interference.

4.Though the names of the respondents 1 and 2 have been printed in the cause list, there is no representation for the respondents 1 and 2. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

5.The issue that arise for consideration in this appeal is whether the first respondent claimant is entitled to claim compensation for the death of his Father's brother. Perusal of records disclose that the claimant in order to prove his relationship with the deceased has filed



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only panchayat certificate. However, the fact remains that as per the relevant Government Orders, the competent Authority to issue legal heir certificate is the revenue officials or the competent civil Court. In the present case, the claimant has neither produced any legal heir certificate issued by the revenue officials nor produced any order from the competent civil Court declaring him as the legal heir of the deceased. Without any legal heir certificate and without any proof for dependancy, the Tribunal has awarded compensation in favour of the claimant. Hence, this Court is inclined to set aside the impugned judgment and decree.

6. Accordingly, the judgment and decree dated 12.02.2019 passed by the Motor Accidents Claims Tribunal, Subordinate Court, Kangayam, in M.C.O.P.No.168 of 2018, is set aside. The appellant Insurance Company is permitted to withdraw the entire amount deposited by them to the credit of M.C.O.P.No.168 of 2018.

7. Liberty is granted to the first respondent claimant to file claim petition in the manner known to law after obtaining legal heir certificate from the revenue officials or from the competent civil Court.



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If the first respondent file claim petition after obtaining appropriate legal heir certificate, the period during which this appeal was pending before this Court and the period during which the claim petition was pending before the Tribunal is excluded for the purpose of limitation.

8.The civil miscellaneous appeal is allowed. No costs.
Consequently, the connected miscellaneous petition is closed.

04.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Subordinate Court, Kangayam.



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M.DHANDAPANI,J.
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