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C.R.P.No.2890 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2890 of 2024

and

C.M.P.No.15363 of 2024

1.Govindan

2.Vennila

... Petitioners

Vs.

1.Shahith

2.Maheswari

3.The New India Assurance Company Limited,
Jawaharlal Nehru Street,
Pondicherry.

4.Prema Devi

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the fair and final order made in I.A.No.231/2024 in M.C.O.P.No.100/2019 dated 19.03.2024 by the learned Additional District Judge, Kallakurichi.

For Petitioners : Mr.B.Jawahar

For Respondent-3 : Mr.J.Chandran



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ORDER

This revision has been filed seeking to set aside the fair and final order passed in I.A.No.231 of 2024 in M.C.O.P.No.100 of 2019 dated 19.03.2024 by the learned Additional District Judge, Kallakurichi.

2.The petitioners/claimants filed M.C.O.P.No.100 of 2019 seeking compensation for the death of their son, who died in a road accident. Though initially the claim petition was filed under Section 166 of the Motor Vehicles Act (hereinafter 'M.V. Act'), thereafter, the petitioners changed the section into 163(A) of M.V. Act. Now again the petitioners filed I.A.No.231 of 2024 under Order VI Rule 17 of C.P.C. seeking to amend the Section from 163(A) of M.V. Act into Section 166 of M.V. Act, which was negated by the Lower Court, against which, the present revision has been filed.



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3.The learned counsel for petitioners submitted that the case is at the stage of final hearing. The third respondent, contesting party/Insurance company might not have serious objections. In any event, claimants son died in the accident. Hence, it should be only under Section 166 of M.V. Act and not under Section 163(A) of M.V. Act. Mere quoting wrong provision would not disallow the petitioners' claim. Further submitted that if the Motor Accident Claims Tribunal considers the petition under Section 163(A) of M.V. Act, the petitioners/claimants might be denied of their rightful plea for compensation.

4.The learned counsel appearing for the third respondent/Insurance company submitted that they got no serious objection subject to the evidence and materials available in the Court. The Lower Court can decide the case and pass orders under Section 166 of M.V. Act, if sufficient materials are available.



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M.NIRMAL KUMAR, J.

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5.Recording the above submissions, this Court set asides the order passed in I.A.No.231 of 2024 in M.C.O.P.No.100 of 2019 dated 19.03.2024 by the learned Additional District Judge, Kallakurichi and the Civil Revision Petition is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

29.07.2024

Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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To

The Additional District Judge,
Kallakurichi.

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and C.M.P.No.15363 of 2024