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C.M.A.No.2673 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2673 of 2022

1.Lakshmi
2.Thangavel
3.Perumal

... Appellants

Vs.

1.Selvakumar D
2.Vasu R

3. The Branch Manger,
ICICI Lombard General Insurance Company Ltd.,
Second and Third Nungambakkam High Road,
Chottabal Centre,
Chennai - 600 034.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 17.04.2021 made in M.C.O.P. No.65 of 2020 on the file of the Motor Vehicle Claims Tribunal and Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.B.Sivakollapan
for R3

No appearance - R1 and R2



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C.M.A.No.2673 of 2017



JUDGMENT

This appeal has been filed by the claimants, seeking enhancement of compensation. It is represented by the learned counsel appearing for the third respondent / Insurance Company that in a connected claim pertaining to the very same accident, pay and recovery rights was granted to the Insurance Company, whereas in the impugned award, no pay and recovery rights has been granted. The impugned award is an *ex-parte* award.

2. It is also represented by the learned counsel for the Insurance Company that an application has already been filed before the Tribunal by the Insurance Company, seeking to set aside the *ex-parte* award. But, the said application is still pending.

3. It is also not disputed by the learned counsel for the appellant that in a connected claim pertaining to the very same accident, pay and recovery rights was granted to the Insurance Company. While that be so, necessarily, the impugned award will have to be set aside and the matter will have to be remanded back to the very same Tribunal for fresh consideration on merits



C.M.A.No.2673 of 2024

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and in accordance with law and since the appellants have sought for enhancement of claim in this appeal, the Tribunal will have to dispose of the claim on remand within a time frame to be fixed by this Court.

4. For the foregoing reasons, the impugned award passed by the Tribunal is hereby set aside and the matter is remanded back to the very same Tribunal viz., Motor Vehicle Claims Tribunal and Special District Court for Motor Accident Claims Cases, Krishnagiri, for fresh consideration on merits and in accordance with law and both the parties are permitted to let in additional documentary evidence to substantiate their respective contentions before the Tribunal and the Tribunal is directed to pass final award within a period of four months from the date of receipt of a copy of this judgment. No Costs.

04.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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C.M.A.No.2673 of 2022

ABDUL QUDDHOSE. J.,

ab

To

1. The Motor Vehicle Claims Tribunal and Special District Court for Motor Accident Claims Cases, Krishnagiri.
2. The Section officer, Record Section, High Court of Madras.

C.M.A.No.2673 of 2022

04.06.2024