



C.R.P.(PD).No.3506 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.3506 of 2019
and CMP.No.23019 of 2019

1.Murali
2.Minor. Yazhini
3.Minor. Sushanth
(Minors represented by their Murali as
Natural guardian and next friend)

... Petitioners

vs.

Bharati AXA General Insurance Company Limited,
No.21/162, Metro Plaza – II,
Annasalai,
Chennai – 600 002.

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of CPC, praying to set aside the order and decree dated 10.06.2019 made in M.P.No.4250 of 2018 in MCOP.No.1973 of 2017 on the file of the Motor Accident Claims Tribunal, Chennai (II Court of Small Causes, Chennai)

For Petitioners : A.G.F.Terry Chella Raja
for Ms.M.Malar

For Respondent : M/s.B.Siva Kollappan
for Sole respondent



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Motor Vehicle Claims Tribunal, dismissing the application filed by the petitioners/claimants to amend the provision of law in the claim petition as Section 163(A) of Motor Vehicles Act, instead of 166 of Motor Vehicles Act.

2. The petitioners herein filed Motor Vehicle Claim against the respondent for the death of first petitioner's wife and mother of petitioners 2 and 3 in road accident. Initially, the claim petition was filed under Section 166 of Motor Vehicles Act and by virtue of amendment, the petitioners want to amend the provision of law as Section 163(A) of Motor Vehicles Act, instead of 166 of Motor Vehicles Act. The amendment would be inconsequential for the liability of the respondent.

3. The learned counsel appearing for the petitioners submitted that in order to make a claim under structured formula, the petitioners want to amend the provision of law under Section 163(A) of Motor Vehicle Act, instead of 166 of Motor Vehicle Act. The learned counsel appearing for the



respondent by taking this Court to the averment found in the affidavit filed in support of the amendment application submitted that the petitioners want to plead new facts. He further submitted that in the affidavit filed in support of the amendment petition, it was stated by the petitioners that the accident was caused by a 3rd party vehicle. The said averment is against the original averment found in the claim petition.

4. Though the petitioners in the affidavit filed in support of the amendment petition made certain new averment regarding the manner of accident, they have not sought for amendment of the body of the claim petition. The amendment sought for is only with regard to the provision of law. In view of the same, there may not be any impediment to this Court to allow the amendment petition.

5. It is always open to the respondent/Insurance Company to file additional counter and raise their objection for the petition filed under Section 163(A) of Motor Vehicles Act.



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6. With these observations, the Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Motor Accident Claims Tribunal,
Chennai (II Court of Small Causes, Chennai).

S.SOUNTHAR, J.



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