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CMA.No.232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.232 of 2023

1. J.Nagavalli
2. A.Jhason

... Appellants

vs.

1. D.Eric Wilson
2. The Manager,
The United India Insurance Co. Ltd.,
No.73-C, 1st Floor, M.T.H.Road,
Ambattur, Chennai -53.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 13.06.2017 in M.C.O.P.65/2012 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Thiruttani.

For Appellants : Mr.K.R.Ponnusamy

For R2 : Mrs.C.Harini for
Mr.M.B.Gopalan Associates

J U D G M E N T

The appellants are the claimants in M.C.O.P.65/2012 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Thiruttani.



They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.7,00,000/- for the death of their daughter J.Jansi (deceased) in the a road accident which happened on 13.04.2009.

2. The claim petition was initially filed before the Motor Accident Claims Tribunal, Tiruvallur in M.C.O.P.579/2010 and subsequently it was transferred to the file of the Motor Accidents Claims Tribunal, Subordinate Court, Tiruttani and renumbered as M.C.O.P.65/2012.

3. The Tribunal after analysing the evidence on record, had observed that since the claimants are not residing within the jurisdiction of Tiruvallur District, and the accident also took place near Vellore, the claim petition cannot be maintained and dismissed M.C.O.P.65/2012 on 13.06.2017.

4. Aggrieved over the same, the present appeal is filed by the appellants/claimants under Section 173 of the Motor Vehicles Act.



5. Heard Mr.K.R.Ponnusamy, learned counsel for the appellants and Mrs.C.Harini, learned counsel appearing for the second respondent.

6. It is seen from the records that the claimants are casual labourers and their specific contention is that though their permanent residence is at Katpadi, they are presently working in Panapakkam village which is within the jurisdiction of Tiruvallur. This aspect was not taken into consideration by the Tribunal and on the other hand, the Tribunal had observed that the claimants had not adduced any evidence to show that they are presently residing at Panapakkam. As already observed, the claimants are casual labourers. The Tribunal should have avoided hyper technical approach in deciding a Motor Accident Claims Petition. In the circumstances, the orders passed by the Tribunal is liable to be set aside and the case is remitted back to the same Tribunal to consider the claim petition on merits and in accordance with law.

7. In the result,

- i. This Civil Miscellaneous Appeal is allowed. No costs.
- ii. The Judgement and Orders passed in M.C.O.P.65/2012



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on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tiruttani is set aside.

- iii. M.C.O.P.65/2012 is remitted back to the Motor Accidents Claims Tribunal / Subordinate Judge, Tiruttani to consider the claim petition afresh in accordance with law.
- iv. The parties are directed to appear before the Motor Accidents Claims Tribunal / Subordinate Judge, Tiruttani on 17.09.2024.
- v. On appearance of the parties, the Motor Accidents Claims Tribunal / Subordinate Judge, Tiruttani shall decide the case on merits and in accordance with law and dispose off the same within a period of three months thereafter.

29.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

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- 1.The Motor Accidents Claims Tribunal,
Subordinate Judge, Tiruttani.
2. The Motor Accident Claims Tribunal,
The Principal District Court, Tiruvallur.
- 3.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.



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