



C.R.P.(MD)No.1620 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2024

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.1620 of 2024

and

C.M.P.(MD)No.9537 of 2024

1.Chandran
2.Ponnusamy

... Petitioners

Vs.

1.Minor.Sivan
2.Minor.Hemamalini

... Respondents

(1st and 2nd respondents are represented through
their legal guardian, next friend and their uncle
Durai@Sudalaiyandi)

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the order, dated 28.04.2024, passed in I.A.No.2 of 2023 in M.C.O.P.No.187 of 2019 on the file of the Motor Accidents Claims Tribunal, Tenkasi / Additional District Court (FTC), Tenkasi.

For Petitioners : Mr.V.Meenakshi Sundaram
For Respondents : Mr.S.Balakarthick



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ORDER

The present civil revision petition is filed against the order, dated 28.04.2024, passed in I.A.No.2 of 2023 in M.C.O.P.No.187 of 2019 on the file of the Motor Accidents Claims Tribunal, Tenkasi / Additional District Court (FTC), Tenkasi.

2. The 1st revision petitioner was the rider of the two-wheeler and 2nd revision petitioner is the owner of the two-wheeler. The accident occurred on 23.12.2016. The entire liability was fixed on the 2nd revision petitioner owner. The Tribunal has passed an exparte order in the M.C.O.P., against the revision petitioners. Thereafter the revision petitioners had filed petition to set aside the exparte order in I.A.No.2 of 2023 along with condone delay petition to condone the delay of 348 days and the delay application was dismissed. Aggrieved over the same the present revision petition is filed.



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3. The contention of the revision petitioners is that the petitioners were also injured in the same accident and they were also admitted in the hospital and was under treatment. If an opportunity was given to them, they would prove the same. Further, it is seen that there is no insurance for the two-wheeler and it is not known whether the insurance is available for the light weight load auto. If opportunity is granted to the revision petitioners the same could be ascertained by the revision petitioners.

4. Therefore, this Court is of the considered opinion that an opportunity ought to be granted to revision petitioners. Further if the insurance is available, then the insurance company ought to be impleaded as a party.

5. However, the respondents seem to be minors and they have lost their father as well as mother and they are represented by their maternal uncle. Therefore, the revision petitioners are directed to deposit Rs.7,00,000/- to the credit of the M.C.O.P., in the claims Tribunal on or before 15.11.2024 and the



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guardian is permitted to withdraw the interest amount once in three months for the maintenance of the minors.

6. The order passed by the Tribunal in the I.A. is set aside. The Tribunal is directed to restore the M.C.O.P. on file and the same shall be heard on merits after giving opportunity to the revision petitioners and complete the proceedings on or before 31.03.2025. Since the delay in filing the I.A., is 348 days, the revision petitioners are directed to pay a cost of Rs.3,000/- to the learned Counsel appearing for the respondents herein.

7. With the above said directions, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.Motor Accidents Claims Tribunal, Tenkasi /
Additional District Court (FTC), Tenkasi.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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