



*C.R.P(MD)No.376 of 2018*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**C.R.P(MD)No.376 of 2018**

**and**

**C.M.P(MD)No.1677 of 2018**

1.Gomathy

2.G.D.Queen Dharmika Joy

3.Captain Dhayaha Joy

... Petitioners /Respondents 1-3/  
Petitioners 1-3

Vs.

1.Thanga Pushpa Leela

2.Kanaga Pushpaleela

3.Raja Pushpa Leela

4.Saras Pushpa Leela

5.Christhuraj

6.David Raj

7.Russel Raj

... Respondents/Petitioners in I.A/  
Addl.Respondents 4-10

8.Selvakumar

9.A.Anirudran Nair



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10.National Insurance Company Ltd.,  
Anguvilas Building North Car Street,  
Nagercoil,  
Kanyakumari District.

... Respondent/Respondents 4-6/  
Respondents 1-3

**PRAYER:** Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 09.11.2017 passed in I.A.No.56 of 2017 in M.C.O.P.No.40 of 2012 on the file of Sub Court, Kuzhithurai.

For Petitioners : Mr.M.P.Senthil

For R1-R9 : No Appearance

For R10 : Mr.V.J.Kumaravel

### **ORDER**

The present revision petition has been filed by the claimants in MC.O.P.No.40 of 2012 on the file of Sub Court, Kuzhithurai challenging an order wherein the brother and sister of the deceased person were allowed to be impleaded in the claim petition.

2. It is the case of the revision petitioners / claimants that they are the wife and children of deceased Dharmaraj who was a Police Head Constable. According to them, he met with an accident on 24.03.2010 and he succumbed to the injuries. While the claim petition was pending from the year 2012 onwards, the brother and sister of the deceased



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persons have filed I.A.No.56 of 2017 to get themselves impleaded in the claim petition on the ground that there was a strained relationship between the 1<sup>st</sup> claimant and the deceased Dharmaraj. They have further contended that they have taken care of the medical expenses after the accident. The tribunal after considering the application, has arrived at a finding that whether the brother and sisters of the deceased have spent money towards medical expenses or not has to be decided in the main claim petition. In case if they are not impleaded, they are likely to file another claim petition. Based upon the said findings, the impleading petition has been allowed. Challenging the same, original claim petitioners have filed the present revision petition.

3. According to the learned counsel appearing for the revision petitioners, they have filed the marriage certificate and also the succession certificate of the deceased Dharmaraj. Apart from that, family pension is also received by the 1<sup>st</sup> claimant in the claim petition. Therefore, there is no dispute with regard to the marital status of the 1<sup>st</sup> claimant. The proposed respondents who are the siblings of the deceased Dharmaraj have not filed any document whatsoever to establish that they have spent money towards medical expenses. In any event, the tribunal is going to pass an award only based upon the documents that are going to



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be filed by the claimant. In case, if the proposed parties have spent money on the medical expenses, the claimant would not be in possession of those medical bills and would not be in a position to claim compensation. In other words, if the siblings of deceased Dharmaraj have really spent any money towards medical expenses after the accident, it is for them to claim the same through appropriate independent proceedings and not claiming themselves to be the dependants of the deceased Dharmaraj. Hence, he prayed for allowing the revision petition.

4. Though notices have been served upon the impleaded parties and their names are printed, they have chosen not to appear either in person or through counsel.

5. The narration of the facts above will clearly indicate that the siblings of late.Dharmaraj are attempting to get themselves impleaded in a claim petition , which is pending for more than 5 years. In case if they have spent towards medical expenses of the deceased Dharmaraj after the accident, it is for them to approach the appropriate forum for recovery of the said money from the 1<sup>st</sup> claimant herein. The proposed parties are elder sisters and younger brothers of the deceased person. In the claim petition, the Court has to consider only the dependency for granting



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compensation. In the present case, the elder sisters are already married and living separately and the younger brothers of late.Dharmaraj are major and they are not dependent on the deceased person even as per the impleading petition. Therefore, in such circumstances, the tribunal ought not to have allowed the impleading petition. The order passed by the tribunal in I.A.No.56 of 2017 is set aside and the Civil Revision Petition stands allowed. The learned Subordinate Judge, Kuzhithurai is directed to dispose of the claim petition on or before 31.10.2024.

6. With the said observations, this Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

**25.04.2024**

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

- 1.The Sub Court,  
Kuzhithurai.
- 2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.VIJAYAKUMAR ,J.**

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Order made in  
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