



C.M.A.(MD).No.1205 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1205 of 2017

1. Mahalingam

2. Malar Kannan

... Appellants/Petitioners

-vs-

United India Insurance Company Limited,
No.23E, E.V.R Road,
Puthur, Trichy -11

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order passed in M.C.O.P.No. 239 of 2014, dated 16.11.2016, on the file of the Motor Accident Claims Tribunal (Special District Judge), Tiruchirapalli.

For Appellants : Mr.H.Arumugam
For Respondent : Mr.J.S.Murali

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.239 of 2014, on the file of the Motor Accident Claims Tribunal (Special District Judge), Tiruchirapalli, challenging the dismissal of the claim petition.



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2. As per the claim petition, the deceased Deepalakshmi had travelled as a pillion rider in a two wheeler that was driven by the first claimant who is her husband. According to the claimants, since a dog had suddenly crossed the road, the husband of the deceased lost control of the vehicle and the pillion rider, namely, the deceased person had fallen down, sustained grievous injuries and passed away. The husband and the alleged adopted son of the deceased lady have filed the claim petition arraying their own Insurance Company as the respondents.

3. The Insurance Company has filed a counter contending that since the husband himself is the tortfeasor and the insured person, he cannot make a claim as against his own Insurance Company.

4. The Tribunal, has accepted the said contention and proceeded to dismiss the claim petition. The Tribunal has further found that no documents have been placed on record to show that the first claimant is the husband of the deceased lady and the second claimant is the adopted son of the deceased lady. Challenging the said award, the present appeal has been filed.



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5. According to the learned counsel appearing for the appellants, in view of the additional evidence marked in C.M.P(MD) No.7964 of 2018, it is clear that the first claimant is the husband of the deceased lady. He further contended that the second claimant is their adopted son and to prove the same Ex.P6 and Ex.P7 have been marked. Hence, he prayed for setting aside the dismissal of order and to pass an award in favour of the claimants as prayed for in the claim petition.

6. Per contra, the learned counsel appearing for the respondent herein had contended that even assuming that the first claimant is the husband of the deceased lady, he being the tortfeasor and insured person, the question of payment of compensation to the insurer would not arise.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. Admittedly, the first claimant, namely, P.Mahalingam had driven the two wheeler, in which, the deceased lady was a pillion rider. No other vehicle was involved in the accident. Since the first claimant lost control over the



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vehicle, the pillion rider had fallen down and passed away. The first claimant is none other than the insured person.

9. In such circumstances, the insured person himself cannot be the claimant in the claim petition. Though the second claimant is said to be the adopted son of the first claimant, no legally acceptable documents have been placed on record to prove the adoption. In such circumstances, the Tribunal was right in dismissing the claim petition and there are no merits in this appeal.

10. Accordingly, this Civil Miscellaneous Appeal stands dismissed.

There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Petitioners side documents:

P6 – Voter ID Card of the deceased Deepalakshmi

P7- Legal Heir Certificate of the deceased Deepalakshmi



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To

1. The Motor Accident Claims Tribunal
(Special District Judge), Tiruchirapalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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