



C.R.P. (MD).Nos.2280 of 2019 and 2812 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)Nos.2280 of 2019 and 2812 of 2023

C.R.P.(MD) No.2280 of 2019:

K.Jeyaraman (died)

1. J.Sivagami

2. M.Loganathan

3. M.Karthick

... Petitioners/Petitioners/
Petitioners

-vs-

1. Subash Chandrabose

2. Oriental Insurance Company,
Branch Office,
Pudhukottai.

3. Vasantha

4. Vijayakumr

5. Rajasrasi

... Respondents/Respondents/
Respondents



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PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, against the fair and decreetal order dated 08.11.2018, in I.A.No.99 of 2018 in M.C.O.P.No.822 of 1996, on the file of the I Additional District Court (PCR, Tiruchirapalli.

For Petitioners : Mr.A.Sivasubramanian

For R2 : Mr.Israel K.Mani

For R3 : Mrs. K.R.Shivashankari

For R1, R4 & R5 : No appearance

C.R.P.(MD) No.2812 of 2023:

K.Jeyaraman (died)

1. J.Sivagami

2. M.Loganathan

3. M.Karthick ... Petitioners/3rd Parties

-vs-

1. Vasantha

2. Vijayakumr

3. Rajasrasi ... Respondents 1 to 3/Claimants

4. Subash Chandrabose

5. Oriental Insurance Company,
Branch Office,
Pudhukottai.

... Respondents 4 and 5/
Respondents 1 and 2



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PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the award passed in Lok Adalat in M.C.O.P. No.44 of 1996, on the file of the learned District/Sub Judge (Motor Accident Claims Tribunal) (District Committee for Legal Aid) Tiruchirapalli, dated 22.11.1996.

For Petitioners : Mr.A.Sivasubramanian
For R1 : Mrs. K.R.Shivashankari
For R5 : Mr.Israel K.Mani
For R2 to R5 : No appearance

COMMON ORDER

One J. Murugesan @ Muruganathan S/o. K.Jeyaraman, met with an accident on 16.03.1995 and he passed away. One Vasantha, minor Vijayakumar and minor Rajarasi had filed M.C.O.P.No.44 of 1996, on the file of the Sub Court No.II, Tiruchirappalli, seeking compensation, on the alleged ground that they are the wife and children of the deceased person respectively. The matter was referred to Lok Adalat and an Award was passed on 29.11.1996 fixing the compensation at Rs.1,25,000/- (Rupees One Lakh



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and Twenty Five Thousand only) in full quit.

2. The parents of the deceased person, namely K.Jeyaraman and Mrs.Sivagamiammal along with two minor children, namely, minor M.Loganathan and minor M.Karthick had filed M.C.O.P.No.822 of 1996 before the I Additional District Court (PCT) Trichirappalli, seeking compensation for the death of the said Murugesan @ Muruganathan. As per the claim petition, the claimants 3 and 4 namely, the minor children are the children of the deceased person through the first wife.

3. In the said claim petition, a counter was filed by the Insurance Company and thereafter, the claimants have not appeared before the Court and hence, the same was dismissed for default on 10.02.2005. The claimants in M.C.O.P.No.822 of 1996 have filed in I.A.No.99 of 2018 to condone the delay of 4739 days in filing an application to restore the M.C.O.P. The said application was dismissed by the Tribunal, on the ground that they have not properly explained the delay in filing the application to restore the claim petition. That apart, the Tribunal has further found that the liability of the Insurance Company has already been discharged by paying the compensation



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in M.C.O.P.No.44 of 1996 and on the said ground also the condone delay application was dismissed. Challenging the dismissal of the condone delay application, the claimants in M.C.O.P.No.822 of 1996 have filed Civil Revision Petition in C.R.P.(MD) No. 2280 of 2019 and challenging the Lok Adalat award in M.C.O.P No.44 of 1996, the claimants in M.C.O.P No.822 of 1996 have filed C.R.P(MD) No.2812 of 2023.

4. According to the learned counsel appearing for the revision petitioners in both the revision petitions, the said Vasantha and two minor children, who are the claimants in M.C.O.P No.44 of 1996 are not the legal heirs of the deceased person and therefore, they are not entitled to receive any compensation. Further, they have filed the said claim petition without impleading the parents and minor children born to the deceased person through the first wife. He further pointed out that M.C.O.P No.822 of 1996 was filed on 29.01.1996 and the Lok Adalat Award was passed in M.C.O.P.No.44 of 1996 only on 29.11.1996. Therefore, the claimants in M.C.O.P.No.44 of 1996 and the Insurance Company are very well aware of the pendency of M.C.O.P No.822 of 1996. Hence, he prayed for setting aside the Lok Adalat award and to restore the M.C.O.P. No.822 of 1996, in which,



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all the parties are arrayed as petitioners and respondents.

5. Per contra, the learned counsel appearing for the respondents/ claimants in M.C.O.P.No.44 of 1996 had contended that pursuant to the Lok Adalat Award, the entire amount of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) was deposited by the Insurance Company and except a sum of Rs.20,000/- (Rupees Twenty Thousand only) standing in the name of Vasantha, the balance amount has been disbursed to the claimants. He further contended that the claimants in M.C.O.P No.822 of 1996 are not the legal heirs of the deceased and hence, they are not entitled to receive any compensation. Therefore, they were not impleaded as parties in M.C.O.P.No. 44 of 1996. Hence, he prayed for dismissal of both the Revision Petitions.

6. The learned counsel appearing for the Insurance Company in both Revision Petitions had contended that when they entered into a settlement in Lok Adalat, they were not aware of the pendency of M.C.O.P.No.822 of 1996 and hence, they cannot be found fault with. In any case, they have already discharged their liability under the policy and they have deposited the entire



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award amount for the death of the deceased Murugesan @ Muruganathan.

Therefore, no purpose would be served in setting aside the Lok Adalat award or restoring M.C.O.P No.822 of 1996.

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

8. The dates and events narrated above will clearly indicate that the settlement was reached in the Lok Adalat on 29.11.1996. On such date M.C.O.P.No.822 of 1996 was pending. Therefore, the Insurance Company, if they have knowledge about the pendency of M.C.O.P.No.822 of 1996, ought not to have entered into the settlement in the absence of the claimants in M.C.O.P.No.822 of 1996, especially, when there is no dispute that the claimants 1 and 2 in the claim petition in M.C.O.P.No.822 of 1996 are the parents of the deceased. In such view of the matter, this Court is of the opinion that the award of the Lok Adalat in M.C.O.P.No.44 of 1996, dated 29.11.1996 is liable to be set aside and it is hereby set aside, M.C.O.P.No.44 of 1996 is restored and C.R.P(MD) No.2812 of 2023 stands allowed.



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9. The claimants in M.C.O.P.No.822 of 1996 have contended that they could not prosecute the claim petition, in view of the fact that for the same accident, the Lok Adalat Award had been passed and they were trying to get the copy of the said award. It is not in dispute that the claimants 1 and 2 in M.C.O.P.No.822 of 1996 are the parents of the deceased, who are entitled to receive their share in the compensation. In such circumstances, the Tribunal was not right in rejecting the condone delay application, on the ground that liability of the Insurance Company has already been discharged. In such circumstances, the order passed by the Tribunal in I.A.No.99 of 2018 in M.C.O.P.No.822 of 1996 is set aside and the Civil Revision Petition in C.R.P(MD) No.2280 of 2019 stands allowed.

10. It is made clear that any amount that has already been disbursed to the claimants in M.C.O.P.No.44 of 1996 shall not be recovered. In case, if any award is passed in M.C.O.P.No.822 of 1996 in favour of the respondents 3 to 5 in M.C.O.P.No.822 of 1996, the amount already disbursed may be adjusted.

11. In view of the above said deliberations, M.C.O.P.No.44 of 1996 on the file of the Sub Court No.II, Tiruchirappalli, is hereby *suo motu* transferred



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to the file of I Additional District Court (PCR) Tiruchirappalli, to be tried along with M.C.O.P.No.822 of 1996. The parties are directed to co-operate for speedy disposal.

12. With the above said observation, both the Civil Revision Petitions stand allowed. In case, if any award is passed in M.C.O.P No.822 of 1996 the period of default will stand excluded for calculating interest. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

02.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The I Additional District Court (PCR,
Tiruchirapalli.



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2. The District/Sub Judge
Motor Accident Claims Tribunal,
District Committee for Legal Aid,
Tiruchirapalli

R.VIJAYAKUMAR,J.

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