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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.2619 of 2024

and

C.M.P(MD)No.15096 of 2024

The Branch Manager,
The Oriental Insurance Company Limited,
No.3607/21, 2nd Floor,
Sathiyamoorthy Road,
Pudukkottai.

...Petitioners

Vs.

1. Nachiyar
2. Arunkumar
3. Premkumar

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the order of rejection passed in unnumbered I.A.No. of 2024 in E.C.No.38 of 2021, dated 28.04.2022 vide அதிமுக/ஆ1/3911/2024 dated 20.08.2024 on the file of the Employee's Compensation Commissioner cum Labour Joint Commissioner Tribunal, Thiruchirapalli and direct the Joint



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Commissioner to number the delay condonation petition and exparte decree set aside petition filed by the revision petitioner and to dispose the said petitions on merits.

For Petitioner : Mr.C.Jawahar Ravindran

ORDER

This Civil Revision Petition is filed by the Insurance Company to set aside the order of rejection passed in unnumbered I.A.No.__2024 in E.C.No.38 of 2021, dated 28.04.2022 vide அதிமுக/ஆ.1/3911/2024 dated 20.08.2024 on the file of the Employee's Compensation Commissioner cum Labour Joint Commissioner Tribunal, Thiruchirapalli and number the same and also dispose the petition on merits.

2. The claimants in the E.C.No.38 of 2021 are the respondents herein. The 1st respondent in the E.C.No.38 of 2021 namely Sivakumar was the employer of the deceased person, however the said employer was not arrayed as party in the I.A.No.__2024 and also in the present Civil Revision Petition. The Insurance Company is the 2nd respondent in the E.C.No.38 of 2021.



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3. The claimants are the wife and children of the deceased employee, had filed the petition claiming compensation. The said petition was considered the Tribunal and an award was passed for Rs.12,75,800/- [inclusive of funeral expenses] along with interest. Both the employer and the Insurance Company were set exparte. Now the Oriental Insurance Company has filed unnumbered I.A.No.__2024 before the Tribunal along with condone delay petition to condone the delay of 807 days in filing the petition to set aside the exparte decree. But the same was returned without numbering the IA. Aggrieved over the same the present Civil Revision Petition is filed.

4. The contention of the Insurance Company is that the notice for the main claim petition was not received by them. It is only when the claimant Counsel informed that the recovery proceedings were initiated against the Insurance Company, they came to know about the claim petition and the award passed against the company. Further contention of the Insurance Company is that the policy is one of limited liability and the same is not covering the liability arising out of Workmen Compensation Act.



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5. After hearing the submissions, this Court is of the considered that the Insurance Company ought to be granted an opportunity. Especially when the notice in the main claim petition was not served, then the Insurance Company deserves an opportunity. Therefore, the Employee's Compensation Commissioner cum Labour Joint Commissioner Tribunal, Thiruchirapalli, is directed to number the IA and thereafter issue notice to the respondents and consider the case on merits and pass orders, as per Law, within a period of 6 months from the date of receipt of a copy of the order.

6. With these directions, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

24.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Note : Registry is directed to return the original records.



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To

1. The Employee's Compensation Commissioner
cum Labour Joint Commissioner Tribunal,
Thiruchirapalli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Order made in
C.R.P(MD)No.2619 of 2024

24.10.2024