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Rev.Appln. No. 38 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :18.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

Rev.Appln. No. 38 of 2025

Against

C.M.A No.1123 of 2018

1. Rathinam
2. Vijayalakshmi
3. Kalidasan
4. Samundeeswari
5. Balasundaram

...Petitioners

VS-

1. M/s. Achuthan Automobiles,
75, Palanisamy Road,
Tirupattur, Vellore District.
2. Regional Manager,
New India Insurance Co., Ltd.,
Vasan Buildings,
No. 106, Big Road,
Tiruvannamalai.

...Respondents

Prayer: Civil Revision Petition under Section 114 r/w Order 47 Rule 1 of C.P.C praying to review the Decree and Judgement passed in CMA No.1123/2018, dated 06.07.2022 by allowing the present review Application.



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For Petitioner : Mr.P.A.Sudesh Kumar

For Respondent-2 : Mr.C.Ramesh Babu

ORDER

This review petition has been filed seeking to review the order passed in C.M.A.No.1123 of 2018 dated 06.07.2022 .

2.The only ground on which the order in the C.M.A. is sought to be reviewed, apart from once again canvassing the merits of the case, is that it is only the forum under the Workmen Compensation Act that has jurisdiction to consider the claim and not the Motor Claims Tribunal, since the accident is one that has arisen in the course and out of employment. The petitioner now before this Court has not raised such a plea either before the Tribunal or before this Court in the C.M.A.

3. Section 167 of the Motor Vehicles Act gives an option to a claimant to choose a forum in respect of an accident which has resulted in death or bodily injury during and in the course of employment to either file a claim before the Motor Accident Claims Tribunal or before



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the Authority under the Workmen's Compensation Act. This right of choice came to be examined by the Hon'ble Supreme Court in a case reported in *(2013) 9 SCC 406 [Oriental Insurance Company Limited Vs Dyamavva and others]* which was a case where the legal representatives of a deceased Pump Operator with Mormugao Port Trust had filed a claim before the Motor Accident Claims Tribunal for the death of the employee and the Port Trust had chosen to deposit the compensation payable before the authority under the Workmen's Compensation Act. Thereafter, the Workmen's Compensation Commissioner had issued a notice to the dependents of the deceased employee to give and receive the statement. The representatives appeared before the Commissioner and sought release of the amount deposited. Simultaneously, the claim petition before the Motor Accident Claims Tribunal was also taken up for consideration and orders passed directing the Port Trust to pay compensation to the legal representatives. This was taken up on challenge to the Hon'ble Supreme Court on the ground that, under Section 167, once compensation has been received under the Workmen's Compensation Act, the claimants were precluded from obtaining the compensation under the Motor Vehicles Act as well.



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The Hon'ble Supreme Court, after considering the scheme of the distribution of compensation under the Workmen's Compensation Act and the Motor Vehicles Act , rejected the appeal filed by the Port Trust as follows:

“16. The issue to be determined by us is, whether the acceptance of the aforesaid compensation would amount to the claimants having exercised their option to seek compensation under the Workmen's Compensation Act, 1923.

"17. The procedure under Section 8 aforesaid (as noticed above) is initiated at the behest of the employer “suo motu”, and as such, in our view cannot be considered as an exercise of option by the dependants/claimants to seek compensation under the provisions of the Workmen's Compensation Act, 1923. The position would have been otherwise if the dependants had raised a claim for compensation under Section 10 of the Workmen's Compensation Act, 1923. In the said eventuality, certainly compensation would be paid to the dependants at the instance (and option) of the claimants. In other words, if the



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claimants had moved an application under Section 10 of the Workmen's Compensation Act, 1923, they would have been deemed to have exercised their option to seek compensation under the provisions of the Workmen's Compensation Act. Suffice it to state that no such application was ever filed by the respondent claimants herein under Section 10 aforesaid. In the above view of the matter, it can be stated that the respondent claimants having never exercised their option to seek compensation under Section 10 of the Workmen's Compensation Act, 1923, could not be deemed to be precluded from seeking compensation under Section 166 of the Motor Vehicles Act, 1988."

Therefore, it is clear that it is well open to the claimants to choose the forum as per Section 167 of the Motor Vehicles Act. Therefore, the argument that the Motor Accident Claims Tribunal has no jurisdiction cannot be accepted. In the instant case, the claimants have sought compensation under the Motor Vehicles Act and no application under the Workmen's Compensation Act has been filed by them. Therefore,



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although the plea has been raised for the first time even on merits the ground now sought to be canvassed cannot be upheld. Accordingly, the

Review application is dismissed.

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Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

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P.T.ASHA, J.,

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