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ITEM NO.23

COURT NO.13

SECTION XII

S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 32138/2018

[Arising out of impugned final judgment and order dated 05-07-2018 in CMA No. 761/2018 passed by the High Court of Judicature at Madras]

NEW INDIA ASSURANCE CO. LTD.

Petitioner(s)

VERSUS

VELU & ANR.

Respondent(s)

Date : 12-12-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Petitioner(s) Mr. Salil Paul, Adv.
Mr. Sahil Paul, Adv.
Ms. Manjeet Chawla, AOR
Mr. Sandeep Dayal, Adv.

For Respondent(s) Mr. Vipin Nair, AOR
Ms. M.B.Ramya, Adv.
Mr. P.B.Sashaankh, Adv.
Mr. Mohd Aman Alam, Adv.
Mr. Aditya Narendranath, Adv.
Ms. Madhavi Yadav, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The respondent no.1 (injured) was the claimant in a motor accident claim as he was sustained injuries which he claimed had occurred due to a motor accident while he was driving his two wheeler scooter and he collided and met with an accident with a four wheeler-lorry on 27.12.2011 and he had filed a claim petition for Rupees Twenty lakh before the Motor Accidents Claims Tribunal at Chennai (hereinafter called "the Tribunal"). However, the Tribunal had found no evidence of a motor accident inasmuch as the entire details of the hospital where the injuries were examined and

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treated showed that the same were sustained due to skid and fall from scooter. This is what has been noted in the discharge summary given by the hospital and the respondent no.1 claiming that he was admitted and subsequently he was discharged and thereafter when he was took treatment from another hospital the same reason was written in the discharge summary from that hospital too that accident occurred due to skid and fall. For this reason, the Tribunal have not found any evidence as to the motor accident and has dismissed the claim of the respondent no.1 particularly in view of the fact and also taken into consideration that the FIR bearing No.94/2012 was lodged on 30.01.2012 whereas the accident itself took place on 27.12.2011. The FIR itself was lodged after a delay of 34 days. The matter was taken in appeal where the order/award of the Tribunal has been set aside by the High court on the ground that mere delay of FIR cannot be a ground of rejecting the claim of the respondent no.1 and ordered the claim of Rupees Eleven lakh fifty thousand along with interest @ 7.5 % with a period of six weeks. In default the chairman of the petitioner-insurance company will be present in the High Court.

We have heard both the learned counsel appearing for the parties at length and we do not think that the order of the High Court is sustainable for the simple reason that there was not even an iota of evidence before the Tribunal or before the High Court to have shown that the injuries was sustained in a motor accident except for the delayed FIR. In a given case a delayed FIR will not matter. Merely because the FIR has been delayed a claim cannot be rejected but in the present case considering that all the available evidences points out towards a skid and fall and not a motor

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accident, the delayed FIR also, require a relevance, particularly now we have been told that FIR itself has not been proceeded. Even the police in the FIR also came to the conclusion that there was no motor accident and had filed a closure report.

Under these circumstances, we allow the prayer of the petitioner-insurance company and set aside the order dated 05.07.2018 passed by the High Court of Judicature at Madras.

The present petition is disposed of in the above terms along with pending application(s), if any.

(NIRMALA NEGI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)