

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 11.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2628 of 2015

1. Tamilselvi
 2. Kandasamy
- Appellants/Petitioners

- Vs -

1. Arumugam
 2. The New India Assurance Company Limited
17, Kottai Main Road, Sevapet, Salem.
- Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 19.06.2015 in M.C.O.P.No.1443 of 2013, passed by the Motor Accident Claims Tribunal (Principal District Judge) Namakkal.

For Appellants : Mr.K.Suryanarayanan

For Respondent : Mr.J.Michael Visuvasam - R2
R1 : Exparte

J U D G M E N T

(The Judgment of the Court was delivered by R.Sudhakar,J)

Claimants have filed an appeal against the award dated 19.06.2015 in M.C.O.P.No.1443 of 2013, passed by the Motor Accident Claims Tribunal (Principal District Judge) Namakkal, wherein the Tribunal dismissed the claim petition for lack of territorial jurisdiction.

2. The Tribunal after fulfilled trial, which we find is totally unnecessary, dismissed the petition for want of jurisdiction. If the Tribunal was rolling on the issue of jurisdiction, it should have dismissed the petition at the threshold itself. Since no documents have been filed to prove that the claimants were residing in the address shown in the Claim Petition, the Tribunal came to the conclusion that it would amount to forum shopping.

3. Learned counsel appearing for the appellants placed reliance on the decision in the case of Malati Sardr V. National Insurance Co. Ltd. & Others reported in 2016(1) TN MAC 1 (SC) and submitted that since the provision is a benevolent provision, the Tribunal ought not to have dismissed the appeal.

4. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent.

5. In the decision relied on by the learned counsel appearing for the appellant in the case of Malati Sardr V. National Insurance Co. Ltd. & Others reported in 2016(1) TN MAC 1 (SC), the Honourable Supreme Court, while dealing with the territorial jurisdiction, held as follows:

" 12. We are, thus, of the view that in the face of the judgment of this Court in Mantoo Sarkar (supra), the High Court was not justified in setting aside the award of the Tribunal in absence of any failure of justice even if there was merit in the plea of lack of Territorial jurisdiction. Moreover, the fact remained that the Insurance Company which was the main contesting Respondent had its business at Kolkata."

6. In the light of the above, we find no other option except to set aside the order of the Tribunal and remand the matter back to the Tribunal. Learned counsel appearing for the appellant fairly states that the address shown in the petition is that of the Advocate. However, since the accident happened in Salem, the claimants have to approach the Tribunal at Salem.

7. Accordingly, the order of the Tribunal dated 19.06.2015 in M.C.O.P.No.1443 of 2013 is set aside and the matter is remanded back to the Principal District Court, Namakkal. The Principal District Judge, Namakkal is directed to transfer the claim petition with all records relating to this case to the jurisdiction Tribunal at Salem. The Jurisdiction Tribunal, Salem is directed to dispose of the petition as expeditiously as possible, preferably within a period of six months from the date of receipt of such claim petition. The Jurisdiction Tribunal at Salem is also directed to ascertain the correct address of the claimants.

With the above direction, this Civil Miscellaneous Appeal is allowed by way of remand. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal
(Principal District Judge)
Namakkal.

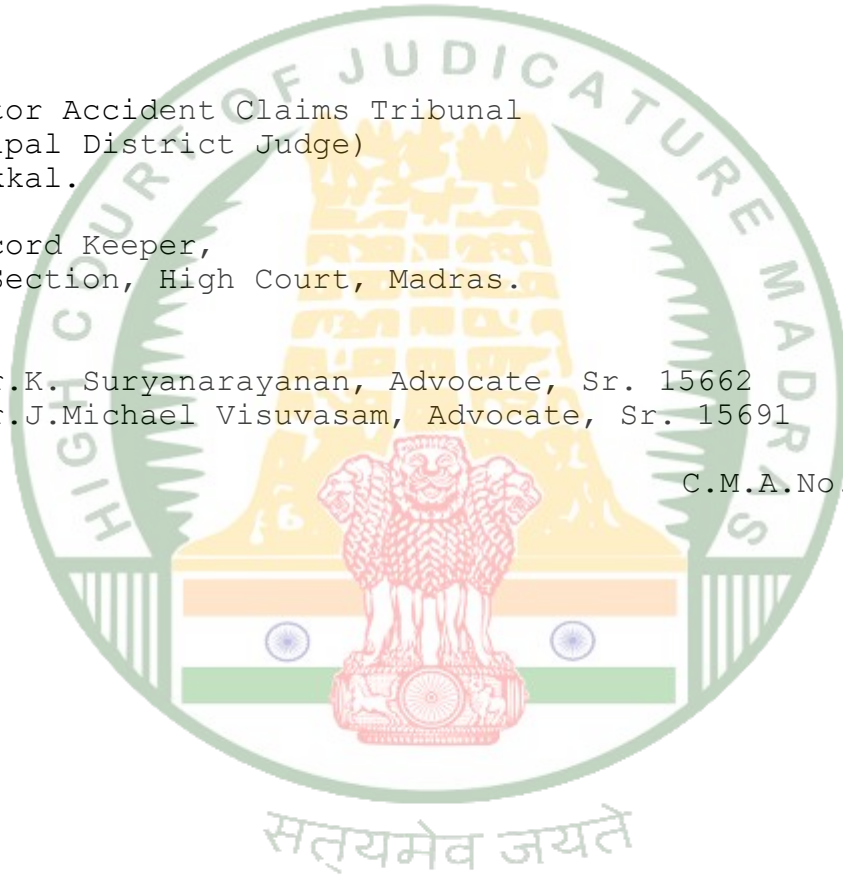
2. The Record Keeper,
V.R. Section, High Court, Madras.

1 cc to Mr.K. Suryanarayanan, Advocate, Sr. 15662

1 cc to Mr.J.Michael Visuvasam, Advocate, Sr. 15691

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