

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2018

CORAM

THE HONOURABLE MS. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2630 of 2008

The Divisional Manager,
Oriental Insurance Co. Ltd.,
Katpadi Road, Vellore

... Appellant/3rd Respondent

..Vs..

1. Kandammal
2. A.C.Thangavelu
3. Saravanan (mentally unsound)
4. Kumar
5. R.Janakiraman
6. Senthamarai

...Respondents/Petitioners & Respondents 1, 2 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order made in M.C.O.P.No.232 of 2000, dated 19.11.2002 on the file of Motor Accident Claims Tribunal (Subordinate Judge), Gudiyatham.

For Appellant : Ms.R.Sreevidya

For Respondents: Mr.C. Prabakaran

for R1 and R2

R3 and R6-not ready in notice

R4 and R5 - Exparte

J U D G M E N T

Learned counsel for the appellant has filed a memo before this Court today. The memo states as follows;

' In the above appeal filed by Insurance Company challenging that the claimants have already get their remedy in CMA.No.2176 of 2008 by order passed by our Division Bench.

In O.P.No.232 of 2000 was filed by the parents of the deceased and another O.P.No.265

of 2000 filed by the wife of the deceased, in which the parents are also shown as parties and their shares also decided by the tribunal. That was also confirmed by our Division Bench in CMA.No.2176 of 2008.

Hence, this appeal in CMA.No.2630 of 2008 against OP.No.232 of 2000 has to be allowed for the reasons that the petitioner's share was already granted in Connected Appeal in CMA.No.2176 of 2008 against OP.No.265 of 2000.

Moreover the claimants' counsel also admitted that they have already withdrawn their respective shares amount.

Hence, it is therefore prayed that this Hon'ble Court may be pleased to record this Memo and pass appropriate orders and allowing the above appeal and thus render justice.'

2. Recording the said memo, the Award dated 19.11.2002 passed in MCOP.No.232 of 2000 by the Motor Accident Claims Tribunal, Sub Judge, Gudiyatham is hereby set aside and the appeal is allowed. Consequently, the connected M.P.No.1 of 2008 is closed. No COSTS.

3. Since the appeal is allowed, the appellant is permitted to withdraw the amount lying to the credit of MCOP.No.232 of 2000 by filing an appropriate application.

MEMO FILED ON BEHALF OF THE APPELLANT

In the above Appeal filed by Insurance Company Challenging that the Claimants have already get their remedy in CMA.NO.2176 of 2008 by order passed by our Division Bench.

In O.P.NO.232 of 2000 was filed by the Parents of the deceased, and another O.P.NO.265 of 2000 filed by the wife of the Deceased, in which the Parents are also shown as parties and their shares also decided by the Tribunal. That was also confirmed by our division Bench in CMA.NO.2176 of 2008.

Hence, this Appeal in CMA.NO.2630 of 2008 against O.P.No.232 of 2000 has to be allowed for the reasons that the Petitioner's share was already granted in Connected Appeal in CMA.NO.2176 of 2008 against O.P.NO.265/2000.

Moreover the Claimants Counsel also admitted that they have already withdrawn their respective shares amount.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msr/ebsi

TO:

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Gudiyatham.

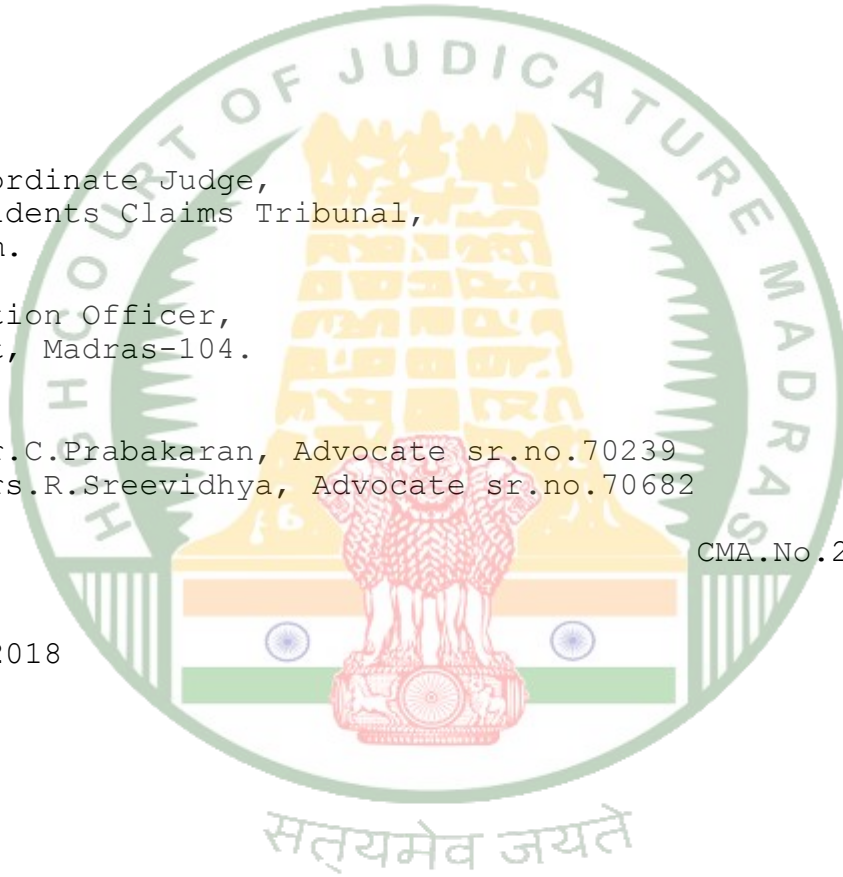
2.The Section Officer,
High Court, Madras-104.

+1cc to Mr.C.Prabakaran, Advocate sr.no.70239

+1cc to Mrs.R.Sreevidhya, Advocate sr.no.70682

CMA.No.2630 of 2008

NM(CO)
NR 11/12/2018



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