

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.P.No.15 of 2018

in

C.M.A.SR.No.102364 of 2017

1.Rajeswari

2.Minor Naveen Kumar,
Rep by Natural Guardian Rajeswari, .. Petitioners

Vs.

1.Ruba

2.Minor Dhivya,
Rep by her maternal Grandmother,
Govindammal.

3.Minor Ravichandran,
Rep by his maternal Grandmother,
Govindammal.

4.Minor Poovarasam,
Rep by his maternal Grandmother,
Govindammal.

5.Govindammal

6.Selvakumar

7.The Branch Manager,
Oriental Insurance Company Limited,
90-A, Thuraiyur Road,
Namakkal-637 002.

.. Respondents

PRAYER: C.M.P.No.15 of 2018 is filed under Section 151 of the Criminal Procedure Code, against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1872 of 2014 on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri and Old No.M.C.O.P.No.468 of 2012 on the file of Principal District Judge.

C.M.A.SR.No.102364 of 2017 is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1872 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri and Old No.M.C.O.P.No.468 of 2012 on the file of Principal District Judge.

For Petitioner : Mr.K.Sudhakar
सत्यमेव जयते

ORDER
WEB COPY

C.M.P.No.15 of 2018 is filed against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1872 of 2014 on the file of the Motor Accidents Claims Tribunal, Special District Court,

Dharmapuri and Old No.M.C.O.P.No.468 of 2012 on the file of Principal District Judge.

C.M.A.SR.No.102364 of 2017 is filed against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1872 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri and Old No.M.C.O.P.No.468 of 2012 on the file of Principal District Judge.

2.The present petition is filed to grant leave to the petitioners to file the appeal against the award dated 12.01.2015 made in M.C.O.P.No.1872 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri and Old No.M.C.O.P.No.468 of 2012 on the file of Principal District Judge by the respondents 1 to 5 against the respondents 6 and 7. According to the petitioners, the 1st petitioner is second wife of deceased Mathaiyan. The 2nd petitioner is born to her and said Mathaiyan. The respondents 1 to 5 suppressed the fact that the 1st petitioner is second wife of Mathaiyan and the deceased Mathaiyan was supporting her till his death, filed the claim petition without impleading the petitioners as parties to the claim petition. The

Tribunal by award dated 12.01.2015 awarded compensation to the respondents 1 to 5. The petitioners came to know about the case details only in the first week of September 2017 and applied for copies of the case. The petitioners are entitled to the share in compensation awarded along with respondents 1 to 5 as legal heirs and dependants of the deceased Mathaiyan.

3.The learned counsel appearing for the 1st respondent contended that the petitioners are not the wife and son of the deceased Mathaiyan and they are not the legal heirs of the deceased Mathaiyan. The petitioners cannot claim compensation for the death of Mathaiyan and prayed for dismissal of the petitioner.

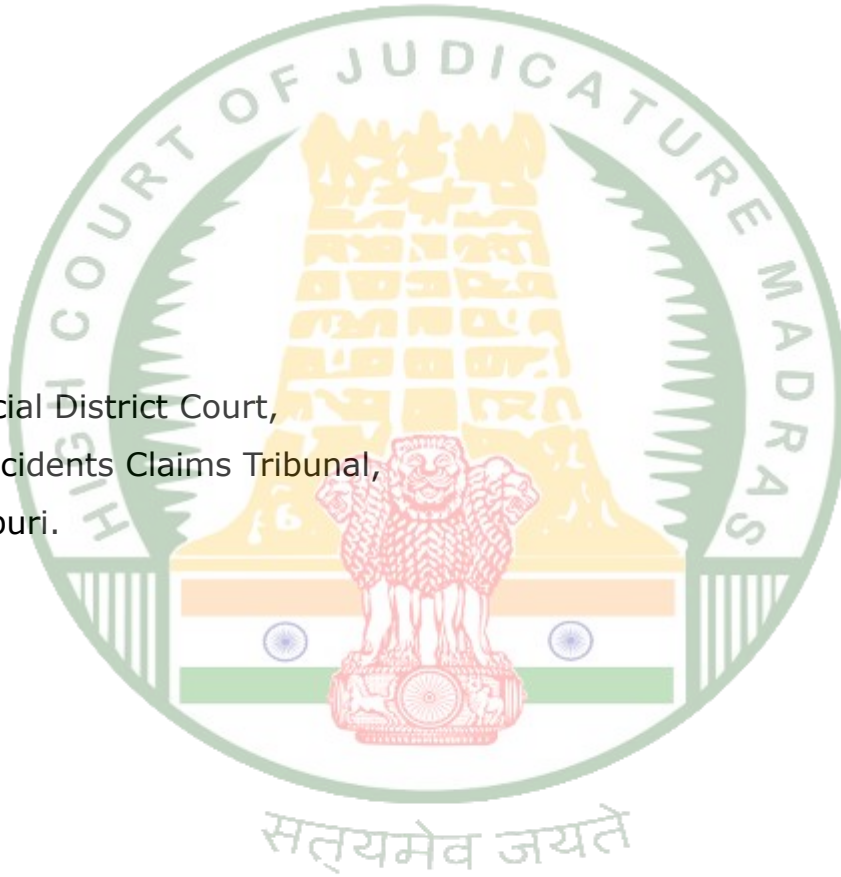
4.The 1st petitioner claimed to be the second wife of deceased Mathaiyan and the 2nd petitioner is the son of Mathaiyan. The said contention is denied by the 1st respondent who is the wife of the deceased Mathaiyan. In view of the rival claims, it is for the petitioners to establish their relationship with the deceased Mathaiyan and their right before the Competent Civil Court. The claim made by the petitioners cannot be decided in the provisions under Motor Vehicles Act in the present petition. Accordingly,

C.M.P.No.15 of 2018 stands dismissed and consequently,
C.M.A.SR.No.102364 of 2017 is rejected. No costs.

18.03.2019

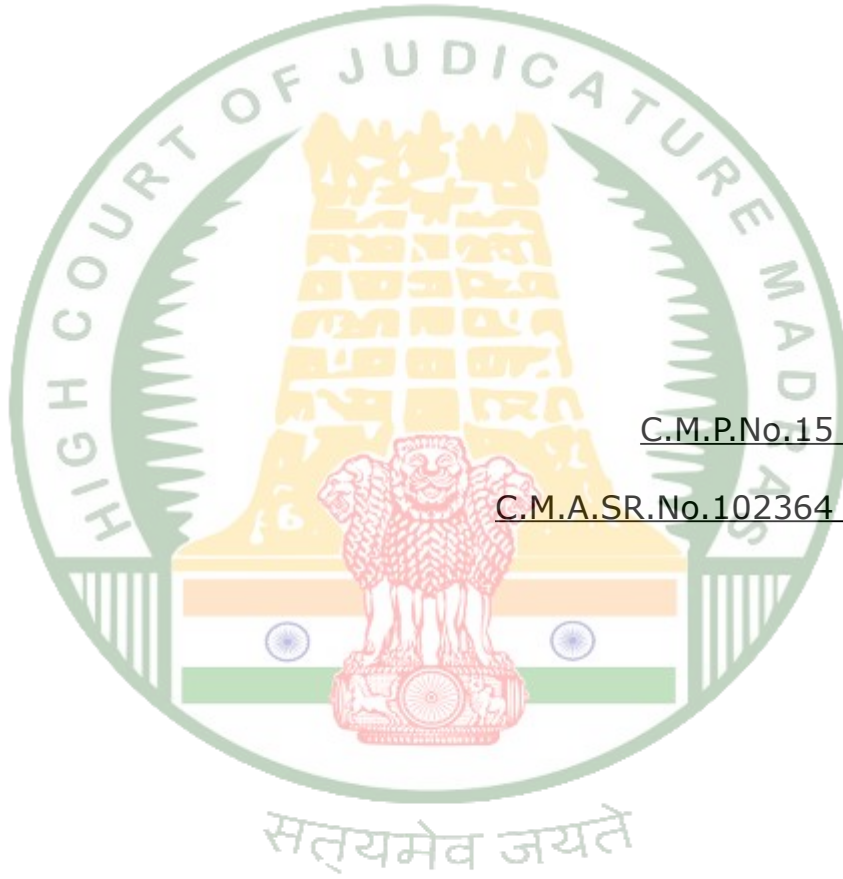
rst/gbi

To
The Special District Court,
Motor Accidents Claims Tribunal,
Dharmapuri.



WEB COPY

V.M.VELUMANI, J.
rst/gbi



C.M.P.No.15 of 2018
in
C.M.A.SR.No.102364 of 2017

WEB COPY

18.03.2019