

C.M.P.No.18489 of 2019
in C.M.A.No.949 of 2019

V.M.VELUMANI, J.

The present Civil Miscellaneous Petition is filed to recall the order dated 07.02.2019 passed in C.M.A.No.949 of 2019 as against M.C.O.P.No.435 of 2004, on the file of the Principal Sub Court, Motor Accidents Claims Tribunal, Chengalpattu.

2.By the award dated 11.03.2008 made in M.C.O.P.No.435 of 2004, a sum of Rs.6,87,000/- was awarded to the respondents 1 to 5/claimants by the learned Principal Subordinate Judge, Chengalpattu. Challenging the said award, the petitioner/Insurance Company filed C.M.A.No.2781 of 2008. This Court by the order dated 11.01.2011 reduced the award amount to Rs.5,40,000/-. According to the petitioner, the said order was passed after serving notice to the respondents. While so, the respondents 1 to 5 filed C.M.A.No.949 of 2019 for enhancement of compensation granted in M.C.O.P.No.435 of 2004. This Court by the order dated 07.02.2019 enhanced the compensation from Rs.6,87,000/- to Rs.10,72,000/-, after hearing the respondents 1 to 5 and petitioner.

3.The petitioner now has come out with the present petition to recall the order on the ground that on the date of hearing C.M.A.No.949

of 2019, the learned counsel appearing for the petitioner was not informed about the order dated 11.01.2011 made in C.M.A.No.2781 of 2008 and hence, the same was not brought before this Court at the time of hearing the appeal in C.M.A.No.949 of 2019 and prayed to recall the order. The learned counsel appearing for the petitioner also submitted that subsequent to the order passed by this Court in C.M.A.No.2781 of 2008, the respondents 1 to 5 have withdrawn the amount awarded to them. By suppressing the said fact, they have filed C.M.A.No.949 of 2019. The contention of the learned counsel for the petitioner is that the petitioner has also made endorsement and permitted the respondents to withdraw the excess amount before the Tribunal. But by over sight, it is not brought before this Court at the time of hearing C.M.A.No.949 of 2019.

4. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents 1 to 5 and perused the materials available on record.

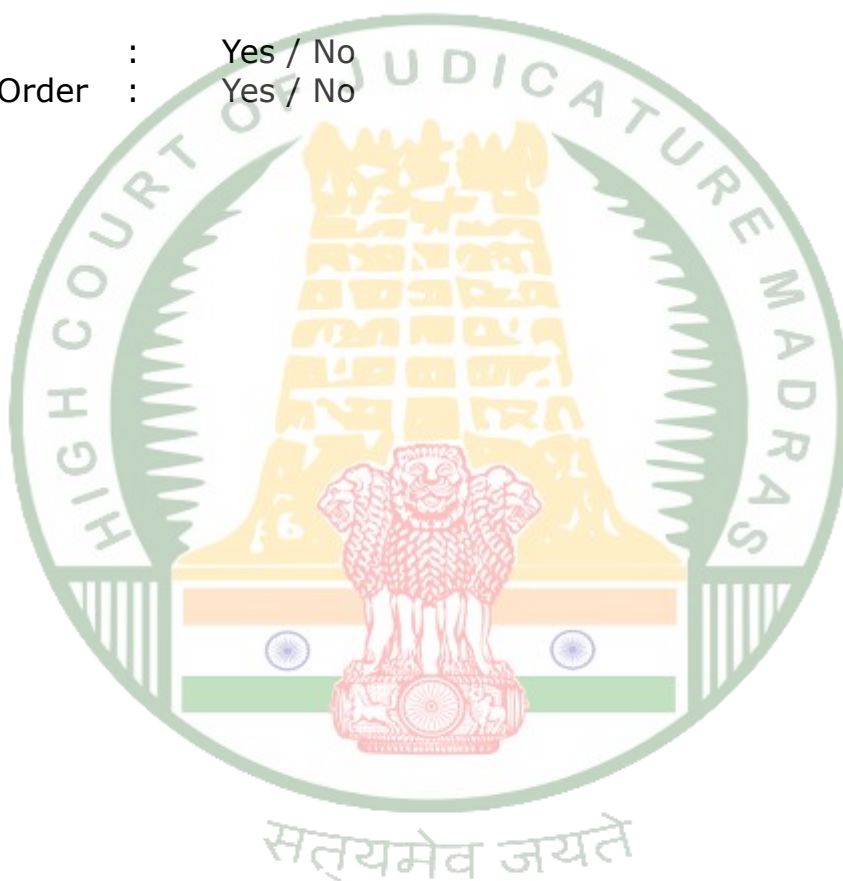
5. Considering the materials on record, in view of the earlier order of this Court dated 11.01.2011 made in C.M.A.No.2781 of 2008 filed against M.C.O.P.No.435 of 2004 on the file of the Principal Sub Court, Chengalpattu, this Civil Miscellaneous Petition is allowed and the order

passed in C.M.A.No.949 of 2019 is recalled and the C.M.A.No.949 of 2019 is dismissed. No costs.

29.08.2019

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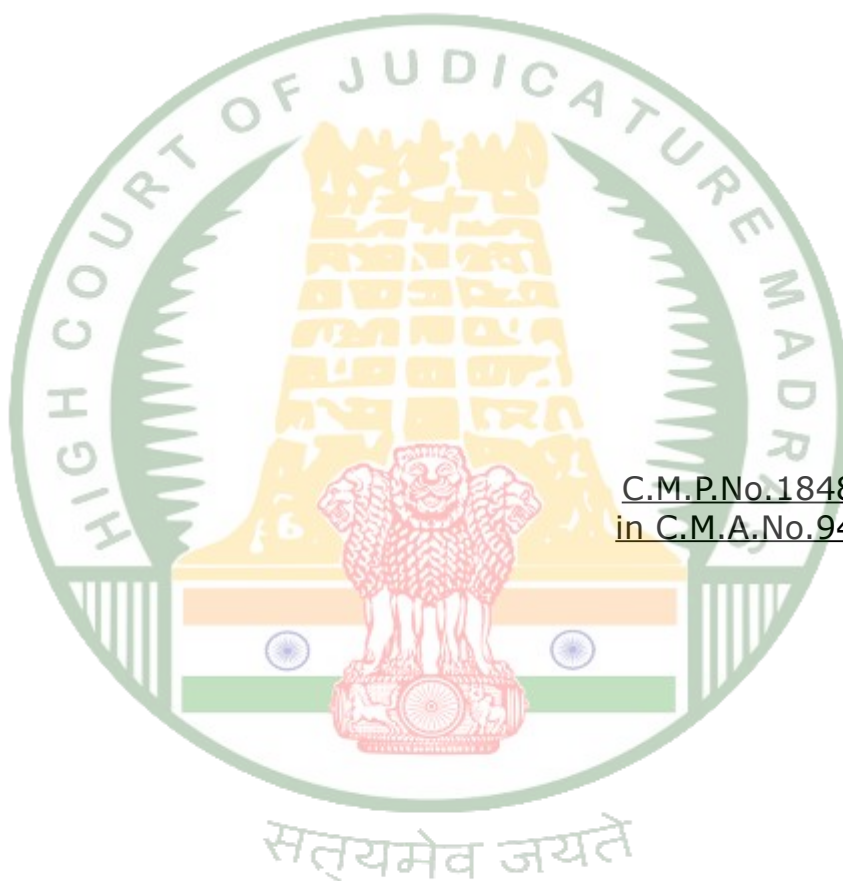
Index : Yes / No
Speaking Order : Yes / No



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