

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3412 of 2012
(Through Video Conferencing)

Kumar

... Appellant

Vs.

1.C.Ramesh

2.The New India Assurance Co. Ltd.,
Third Party Cell Regina Mansion,
No.46, Moore Street,
Chennai.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and decree in M.C.O.P.No.1683 of 2004, dated 17.09.2008, on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : No appearance

For Respondents:

For R1 : Set exparte

For R2 : Mr.E.Rajadurai
for Mr.M.B.Gopalan

JUDGMENT

Though there is no representation on behalf of the appellant/claimant, despite the case being listed in the previous occasion.

2. I have perused the records and considered the arguments of the learned counsel for the 2nd respondent/Insurance Company. I am of the view, to meet ends of justice, this case can be remitted back to the Tribunal as the Tribunal has dismissed the claim petition filed by the appellant/claimant on the ground of lack of territorial jurisdiction.

3. The Motor Vehicles Act, 1988 is a beneficial piece of legislation. It is intended to provide relief to the injured victims and/or to the dependents (Legal Representatives) of the deceased who meet with an unfortunate accident and die due to

the accident. The Tribunal has dismissed the appeal simply on the ground lack of jurisdiction since the accident took place in Cheyyar Taluk whereas the claim petition was filed before the Tribunal at Chennai.

4. The view of the Tribunal appears to be incorrect. There is special advantage to the appellant/claimant by filing the claim petition before the Motor Accidents Claims Tribunal at Chennai. It is for the 2nd respondent/Insurance Company to raise such a defence. If the Tribunal was of the view that claim petition was without jurisdiction it should have returned the claim petition for presentation before the Tribunal having appropriate jurisdiction instead of dismissing the claim petition.

5. In the light of the above discussion, I set aside the impugned order and remit the case back to the Tribunal to dispose the case on merits within a period of 12 months from the date of receipt of a copy of this order.

6. This Civil Miscellaneous Appeal stands disposed of by way of remand. No cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

1.The Motor Accidents Claims Tribunal,
IV Small Causes Court, Chennai.

2.The Section Officer,
Vernacular Section,
High Court, Madras.

C.M.A.No.3412 of 2012

SSV(CO)
CB(19/04/2021)