

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD).No.2364 of 2019

Udhaya Pratap Singh

... Petitioner

Vs.

1.D.Sathish Kumar

2.Bharati – Axa General Insurance Company,
No.162, Metro Plaza,
2nd Floor, Anna Salai,
Chennai – 600 002

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 24.04.2019 and made in M.A.C.T.O.P.No.987 of 2012 on the file of the Motor Accident Claims Tribunal, Poonamallee, III Additional District Court, Tiruvallur at Poonamallee.

For Petitioner : Ms.M.Malar
Terry Chella Raja
For Respondent : Mr.S.Arun Kumar

ORDER

For an accident that had taken place in Chithalapakkam, the petitioner herein laid a claim before Motor Accident Claim Tribunal – III, (Additional District Court, Tiruvallur) at Poonamallee. The same was numbered as M.C.O.P.No.987 of 2012 and the trial was concluded. The counsel for both sides have submitted their arguments and case was adjourned for verdict.

2. At that stage, the Tribunal suo-moto reopened the claim and returned the petition for being presented before the Competent Court having jurisdiction, in view of the recent directions by this Court, not to entertain the claims in whose jurisdiction cause of action does not arise. However, view of the Hon'ble Supreme Court in *Mantoor Sarkar Vs. Oriental Insurance Company* reported in 2009 (1) TNMAC 68, is that the claim petition can be filed only where Insurance Company has its branch office and the judgment of this Court in *Dhanalakshmi and 3 others Vs. Sivanandham and another* held that claim petitions cannot be dismissed for want of jurisdiction. In the present claim petition, the Insurance Company does not have its branch office at Poonamallee or within the jurisdiction of that Court. The place of accident,

residential or office address of the parties are also not within the jurisdiction of the Tribunal. Hence it was returned to the claimant to present it before the Court having jurisdiction,

3. Aggrieved over the same, the petitioner has preferred the above Civil Revision. Heard the submissions made by both sides.

4. I need not here elaborate on the pandemic situation prevailing throughout the country. But it is necessary to look into the consequences of the order and its impact in prevailing pandemic situation. The Central and State Governments have taken a conscientious policy decision to announce lock down, thereby to prevent communal spread of the viral infection. The lock down protocol imposes restricted movement, except for essential, emergent movements, that too with permission granted by the authorities. The country is fighting an invisible enemy without knowing from whom, when, where and how it will infect one. Many of the asymptomatic carries are on the move without knowing that they are infected and unknowingly spread the infection. In such alarming situation, self preservation is the need of the hour, not due to the fear of ones own life but for the welfare of the fellow mortals.

5. The Hon'ble Supreme Court also issued advices and directions to High Courts and Sub-ordinate Courts to avoid clustering and to prevent spread of viral infection. Practically it is not feasible for the Courts to conduct trial. In these peculiar circumstances as directed by the Tribunal to present the claim before the Competent Court having jurisdiction, will lead to re-doing the entire exercise, which has already been concluded. It will cause prejudice to the claimant to present it to an equivalent Court having powers of a District Court, which is far away from his residence. It will not only expose the petitioner to Corona Virus, but also the officials of the respondent Company such as legal Manager, Insurance Inspector and Surveyor and official witnesses like Investigating Officer, Doctor apart from eye witnesses, counsel for parties and Officers of the Court. As discussed above, parties are not fully equipped with infra structure to conduct and participate on line trial. It is not the case that Tribunal is not empowered to try and decide identical matters relating to Motor Accident Claims, but infact itself is a Motor Accident Claims Tribunal designated for that purpose. The claim petition is returned after conclusion of all the proceedings and at the stage of pronouncing judgment. The Tribunal would have pronounced the orders, but for the direction of this Court.

6. I here do not go into the merits of the judgment as to whether it will apply prospectively or retrospectively. The very object of the direction by itself to avoid misuse or abuse of the process and not to prejudice the parties concerned, particularly the respondents. Adherence of the direction, will prejudice not only the claimant but also the respondent and others as discussed above. Hence, in the especial pandemic situation, as an exception, it is just to exercise the powers conferred under Article 227 of the Constitution of India. As the legal maxim goes “Actus Curiae neminem gravabit – meaning, the act of Court harms no one.” For, the welfare and safety of all concerned and to harm none, a direction shall be issued to the Motor Accident Claims Tribunal (III Additional District Judge, Tiruvallur) at Poonamallee to pass orders in the claim petition filed by the petitioner in M.A.C.T.O.P.No.987 of 2012.

7. Accordingly, the order passed in M.A.C.T.O.P.No.987 of 2012 dated 24.04.2019 on the file of the Motor Accident Claims Tribunal (III Additional District Court, Tiruvallur) at Poonamallee, is set aside and a direction is issued to pronounce the judgment in the above matter. However, it is made clear that the present order is passed in extra-ordinary circumstances, shall not be taken as a precedent by any one.

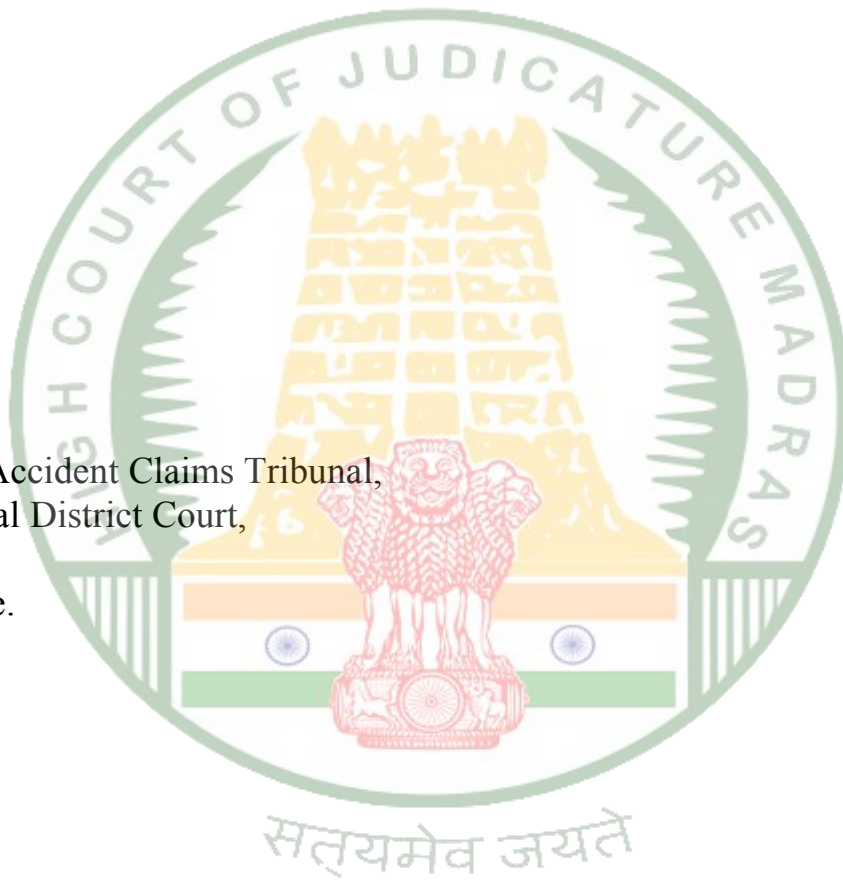
The Civil Revision Petition is ordered in the above terms. No costs.

06.08.2020

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To

The Motor Accident Claims Tribunal,
III Additional District Court,
Tiruvallur,
Poonamallee.



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M.GOVINDARAJ, J.

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