

C.M.A.No.550 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

C.M.A.No.550 of 2009

and

M.P.No.1 of 2009

The Managing Director,
Pattu Kottai Azhgiri Transport Corpn. Ltd., Vellore,
Chennai.

... Appellant/Respondent

..vs..

1.M.D.Ravi (Died)
2.R.Gowri
3.R.Devi
4.R.Krishnan

[Respondents 2 to 4 brought on
record as LRs of the deceased 1st
respondent vide order dated
03.02.2021 made in M.P.Nos.1 to 3 of
2015 in CMA.No.550 of 2009]

... Respondents/Petitioner/
LRS of the petitioner

PRAYER: Appeal filed under Section 173 of the Motor Vehicles
Act, 1988, to set aside the award made in MCOP.No.1068 of 2003
dated 08.01.2008 on the file of the Motor Vehicles Accident
Claims Tribunal and Small Causes Court III at Chennai.

For Appellant :Mr.C.S.K.Sathish

For Respondents:R1 - died

Mr.S.Parthasarathy for R2 to R4

J U D G M E N T

This Civil Miscellaneous Appeal is filed to set aside the award made in MCOP.No.1068 of 2003 dated 08.01.2008 on the file of the Motor Vehicles Accident Claims Tribunal and Small Causes Court III at Chennai.

2. On 27.06.1994 at about 1.00 p.m, the petitioner was traveling as a passenger in the bus belonging to the respondent bearing Reg.No.TN-23-N-0371, the bus was driven by its driver in a rash and negligent manner near Y.M.C.A. at Nandanam and dashed against the parked bus and caused the accident in which the petitioner had sustained grievous injuries. For the injuries sustained by the claimant, he had filed a claim petition in MCOP.No.1068 of 2003 claiming a compensation of Rs.1,50,000/-.

3. Before the Tribunal, the claimant and one Dr.J.R.R.Thiagarajan were examined as PW1 and PW2 and Ex.P1 to Ex.P6 were marked on the side of the claimant. On the side of the Transport Corporation one Subramanian was examined as RW1 and no evidence were marked. On a consideration of the materials, the Tribunal has awarded a sum of Rs.1,00,000/- along with the interest at the rate of 7.5% p.a. Aggrieved by the said award of the Tribunal, the Appellant/ Transport Corporation has come up on appeal before this court.

4. From a perusal of records, it is seen that notice was ordered to the 1st respondent/claimant. Subsequently, it was brought to the notice of this Court that the legal representatives have also filed a petition before this Court to bring them on record along with the condone delay petition. In the said petition it is clearly mentioned by the legal representatives that the 1st respondent/claimant died on 10.11.2006. In view of the above statement of the legal representatives, it is clear that the deceased claimant/R1 had died before filing of the present appeal. Hence, the appeal against the dead person is not maintainable. Therefore, the appeal against a dead person is impermissible in law and liable to be dismissed.

5. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. It is for the legal heirs to workout the

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remedy in accordance with law for amending the cause title in the award.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa

To

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

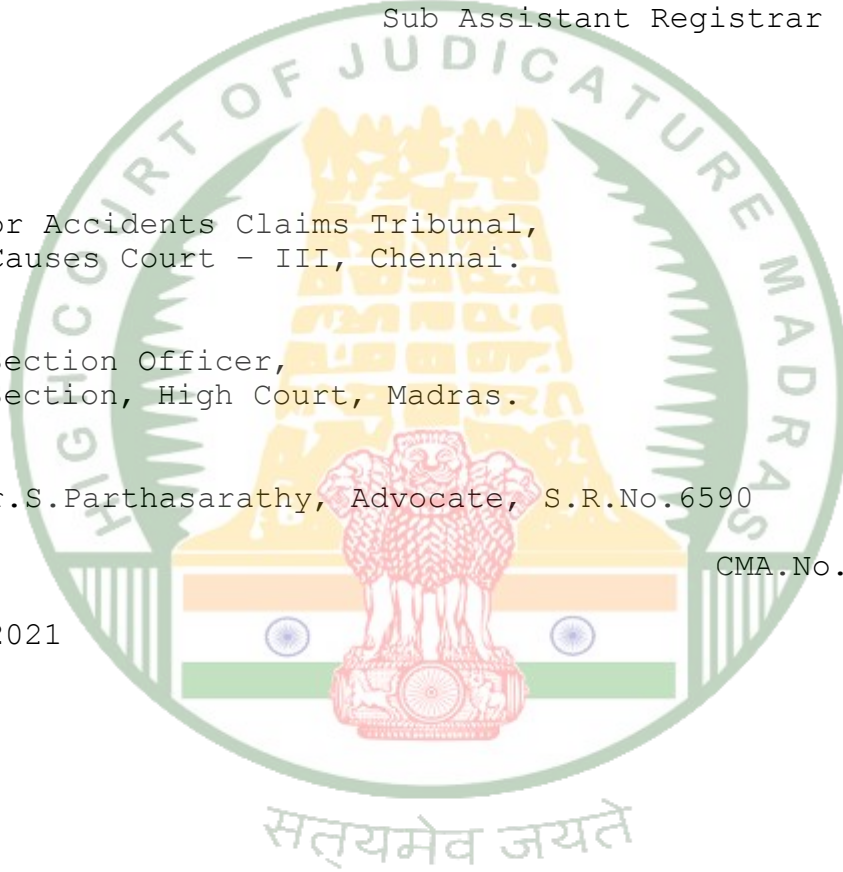
CC TO

The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.6590

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GJ(CO)
RG.16.04.2021



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