

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.M.A. No.2355 of 2011
AND M.P.No.1 of 2011

National Insurance Co.Ltd.,
Athur. ... Appellant/3rd Respondent

Vs.

1.Krishnan ...1st Respondent/Petitioner

2.Velu

3.Kangam ...Respondents 2 & 3/Respondents 1 & 2
(Respondents 2 & 3 exparte before
the trial Court.)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.09.2007, made in M.C.O.P. No.53 of 2002, on the file of the Sub Court, Athur

For Appellant : Mr.E.Rajadurai

For Respondents: Mr.P.Jagadeesan - R1
(R1 Died)
R2 & R3 - Exparte.

J U D G M E N T

The matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company against the judgment and decree dated 03.09.2007, made in M.C.O.P. No.53 of 2002, on the file of the Sub Court, Athur

2.The appellant is the 2nd respondent in M.C.O.P. No.53 of 2002, on the file of the Sub Court, Athur. The 1st respondent had filed the said claim petition, claiming a sum of Rs.1,50,000/- for the injuries sustained in the road accident that took place on 21.02.2001. The Tribunal after considering

the pleadings, oral and documentary evidence, has concluded that the accident had occurred only due to the rash and negligence driving on the part of the driver of the lorry and accordingly fixed the liability on the part of the owner of the lorry and the insurance company, who are the appellant and the 3rd respondent in this appeal and awarded a sum of Rs.60,000/- as compensation payable by them jointly at the rate of 7.5% per annum.

3. Heard both sides and perused the materials available on record.

4. It is seen from the records that when the appeal came up before this Court on 17.10.2019 it was represented before this Court that claimant died and sought for time to implead the legal heirs of the deceased first respondent, hence adjourned by four weeks. Thereafter the matter was listed on 15.11.2019 since, on that day, no steps have been taken by the learned counsel for the appellant, he was directed to implead the legal heirs of the deceased first respondent and adjourned the matter to 28.11.2019. Again at the request of the learned counsel for the appellat/Insurance company, the case was listed periodically on 06.02.2020, 24.02.2020 and 02.03.2020.

5. Today the learned counsel for the appellant represented before this Court that despite several opportunities granted by this Court, the learned counsel appearing for the 1st respondent has not furnished details of the legal heirs of the deceased first respondent, therefore he is not in a position to implead necessary parties in the appeal. This Court is not accepted the said submissions made by the learned counsel. It is for the appellant to take steps to implead necessary parties in the appeal. Moreover, only on the request made the learned counsel for the appellant, this Court had granted time for the same purpose on several occasions.

6. The learned counsel appearing for the deceased 1st respondent/claimant submitted that he has not received any communication from the legal heirs of the deceased.

7. It is brought to the notice of this Court that the first respondent died on 29.10.2014, even after lapse of eight years, no steps have been taken by the learned counsel appearing for the appellant/insurance company to implead necessary parties in the appeal and no materials were placed before this Court to show the efforts taken by them to prosecute the case by taking steps to implead necessary parties.

8. In view of the submissions made by the learned counsels appearing on either side and taking note of the fact that the

appellant had failed to implead necessary parties for the past eight years despite several opportunities granted by this Court, this Civil Miscellaneous Appeal is dismissed as abated. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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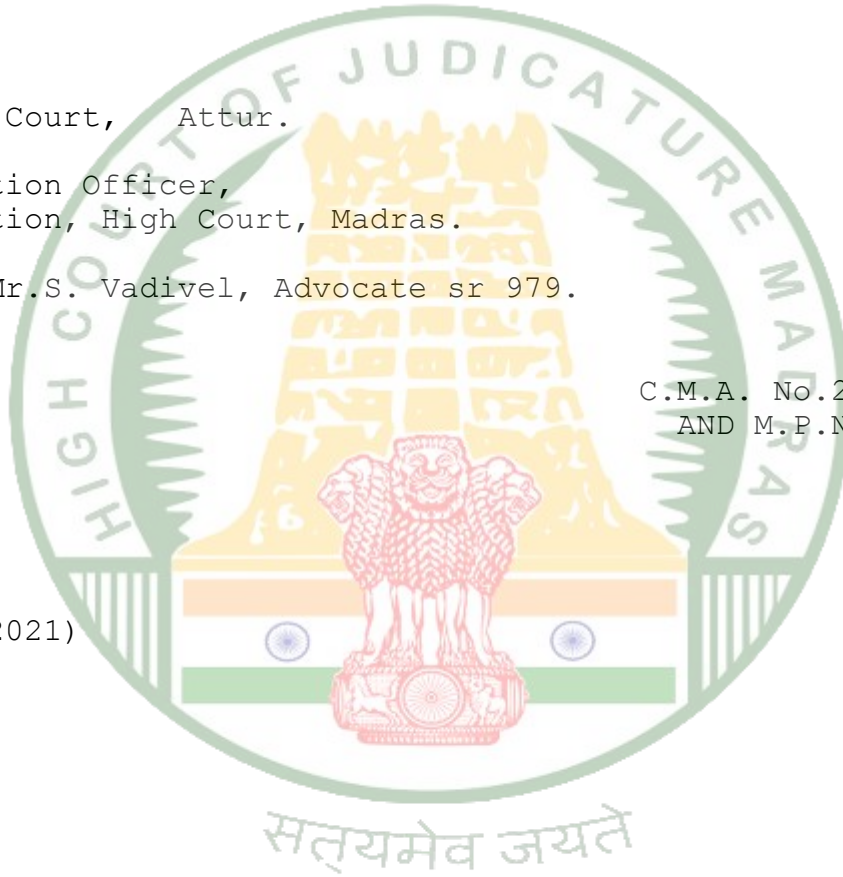
1.The Sub Court, Attur.

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

+1 CC to Mr.S. Vadivel, Advocate sr 979.

C.M.A. No.2355 of 2011
AND M.P.No.1 of 2011

GP (CO)
SP(02/03/2021)



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