

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2576 of 2016
and C.M.P.No.13251 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram.

.. Petitioner

Vs.

- 1.Nasreen Taj
- 2.Minor.Roshan Jameen
- 3.Minor.Hefza

(Minors/respondents 2 and 3 rep. by
their mother and natural guardian
1st respondent Nasreen Taj)

4.Aseefa

5.Waheeda

6.Syed Khadar

7.Reliance General Insurance Co. Ltd.
570, Nalgaum Cross Road
Next to Royal Estate
Wadala (West)
Mumbai-00 031.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the

Constitution of India, for a direction to the learned Special Judge, Motor Accident Claims Tribunal, Krishnagiri, to take on file in I.A.SR.No.1507 of 2016 in M.C.O.P.No.207 of 2014 and to dispose of the same in accordance with law.

For Petitioner : Mr.S.Sairaman

For R1 to R5 : Mr.T.Panchatsaram

ORDER

(The matter is heard through “Video Conferencing/Hybrid Mode”.)

Civil Revision Petition is filed for a direction to the learned Special Judge, Motor Accident Claims Tribunal, Krishnagiri, to take the application on file in I.A.SR.No.1507 of 2016 in M.C.O.P.No.207 of 2014 and to dispose of the same in accordance with law.

2.The petitioner/Transport Corporation is 1st respondent and the respondents 1 to 5 are the petitioners, 6th respondent is 2nd respondent and 7th respondent/Insurance Company is 3rd respondent in M.C.O.P.No.207 of 2014 on the file of the learned Special Judge, Motor Accident Claims Tribunal, Krishnagiri. The respondents 1 to 5 filed the said M.C.O.P. claiming compensation for the death of one Babu @ Jikurulla, who died

in the accident took place on 18.10.2012, against the petitioner and the respondents 6 and 7. In the said M.C.O.P., the petitioner did not file counter statement and was set exparte. The 7th respondent/Insurance Company filed counter statement and contested the M.C.O.P. The respondents 1 to 5 and 7th respondent let in both oral and documentary evidence. The Tribunal by award dated 22.01.2016 directed the petitioner to pay compensation to the respondents 1 to 5 and dismissed M.C.O.P. against the respondents 6 and 7. At that stage, the petitioner/Transport Corporation filed I.A.SR.No.1507 of 2016 to condone the delay of 60 days in filing the petition to set aside the award dated 22.01.2016.

3.According to the petitioner, when the M.C.O.P. was posted for filing counter on 22.01.2016, they could not file counter statement due to the fact that the file got mingled with other files of the petitioner. On 14.07.2016, the Tribunal returned the said I.A. on the ground that I.A. is not maintainable as award was passed on merits after full-fledged trial, against which, the petitioner has come out with the present Civil

Revision Petition.

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 entire materials on record.

5.From the materials available on record, it is seen that the petitioner/Transport Corporation has not filed counter statement in the M.C.O.P. On the other hand, the 7th respondent/Insurance Company entered appearance through counsel, filed counter statement and contested the M.C.O.P. Both the respondents 1 to 5 and the 7th respondent let in oral and documentary evidence. The Tribunal considering the pleadings, oral and documentary evidence, passed an award directing the petitioner/Transport Corporation to pay compensation to the respondents 1 to 5.

6.From the award of the Tribunal, it is seen that the award has been passed after trial, considering the pleadings and evidence let in by the respondents 1 to 5 and 7th respondent. In view of the same, the contention

of the learned counsel appearing for the petitioner that award passed by the Tribunal is exparte award, is contrary to the materials on record. Further, the reason given by the petitioner for non-appearance and not filing counter in the M.C.O.P. is not acceptable. The petitioner has not stated as to when they received notice, when they met the Advocate and entered appearance, when the papers got mingled with other papers and when it was traced. In view of the fact that award was passed by the Tribunal on merits, I.A. filed by the petitioner is not maintainable. Further, the reason given by the petitioner, in any event, is not acceptable.

7.For the above reasons, the Civil Revision Petition stands dismissed. However, it is open to the petitioner to challenge the award passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
Internet: Yes/No
kj

14.09.2021

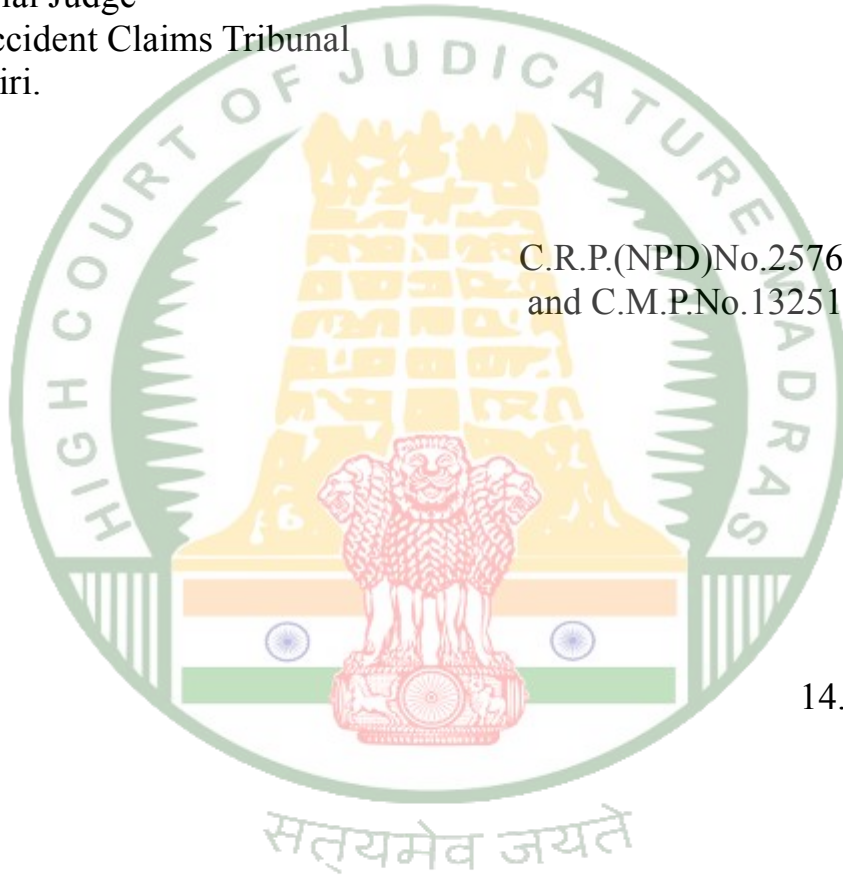
V.M.VELUMANI,J.

C.R.P.(NPD)No.2576 of 2016

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To

The Special Judge
Motor Accident Claims Tribunal
Krishnagiri.



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