



C.M.A. No.1364 of 2022

**C.M.A. No. 1364 of 2022
and C.M.P. No.9895 of 2022**

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**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by M.SUNDAR, J.)

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 02.01.2024 which reads as follows:

'C.M.A.No.1364 of 2022

and

C.M.P.No.9895 of 2022

M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

[Order of the Court was made by M.SUNDAR. J]

Captioned 'Civil Miscellaneous Appeal' [hereinafter 'CMA' for the sake of brevity] is a Statutory Appeal under Section 173 of 'the Motor Vehicles Act, 1988' [hereinafter 'MV Act' for the sake of brevity].

2. Captioned CMA has been filed by the Insurance Company assailing a final award dated 25.01.2022 made in M.C.O.P.No.839 of 2013 on the file of 'the Motor Accident Claims Tribunal [III Additional District Judge's Court] Puducherry' [hereinafter 'said MACT' for the sake of convenience and brevity].

3. The claimant before the said MACT



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[Mr.Balasubramanian, Son of Sambanthamurthi] has been arrayed as first respondent, first respondent having been duly served, has entered appearance through counsel and Mr.D.Senthil Kumar, learned counsel for first respondent is before us. The second respondent is no more and we are informed that the demise of second respondent was pending MCOP before the said MACT. As regards R3 and R4, rider and owner of two wheeler (Motor Cycle) respectively they remain unserved. Mr.J.Michael Visuvasam, learned counsel for the appellant - Insurance Company submits that R3 and R4, who are R1 and R2 before the said MACT remained ex parte before the said MACT. In this regard i.e., as regards whether notice can be dispensed with in the captioned CMA qua R3 and R4, learned counsel for appellant - Insurance Company wanted time to circulate a judgment made by Hon'ble predecessor Bench. Learned counsel sought time to do the same. Request acceded to.

List one week hence. List on 09.01.2024.'

To be noted, thereafter, there was one listing on 09.01.2024 and the matter was re-notified.

2. As regards earlier proceedings made on 02.01.2024, the case law is Gnansoundari 's case being **Gnanasoundari and another Vs. G.Vijayakala and others** reported in **(2023) 6 MLJ 135** rendered by Hon'ble Predecessor Bench saying that even the



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parties who have remained exparte before the Courts below have to be served in the appeal. This means that in the case on hand, respondents 3 and 4 have to be served and needful has to be done with regard to deceased second respondent.

3. As regards service qua respondents 3 and 4, list before Joint Registrar (Appellate Side) on 01.02.2024. Learned counsel for appellant/insurance company to do the needful within three weeks therefrom i.e., by 15.02.2024.

4. List before this Court on 21.02.2024.

(M.S.J.) (K.G.T.J.)
24.01.2024

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**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**



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24.01.2024