



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

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**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMA No. 806 of 2020
and
C.M.P.No.5170 of 2020**

The National Insurance Company Ltd
Its Divisional Office, No.51-A,
J.N.Street, Puducherry District.

Appellant(s)

Vs

1. Ezhumalai (unsound Mind)
S/o.Govindasamy, Rep. By his Wife
And Next Friend Anjalatchi, No.1,
Chetty Street, Kombakkam,
Puducherry District.

2.Ravisankar,
S/o.Kannaiyan, No.391, Villianur
Road, Kombakkam, Puducherry.

Respondent(s)

Prayer:

Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in M.C.O.P.No.766 of 2016 on 21.08.2018 on the file of the Learned Motor Accident Claims Tribunal / Additional Sub Judge at Puducherry and be pleased to dismiss the above claim and allow the CMA.



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For Appellant(s): Mr.J.Chandran

For Respondent(s): Mr.B.Gopalakrishnan
(For R1)

JUDGMENT

(Order of the Court was made by C.V.Karthikeyan J.)

Heard Mr.J.Chandran, learned counsel for the appellant and Mr.B.Gopalakrishnan, learned counsel for the respondents.

2. The appeal had been filed, questioning the judgment in M.C.O.P.No.766 of 2016 on the file of the Motor Accident Claims Tribunal / Additional Sub-Court at Puducherry, wherein judgment was passed on 21.08.2017, awarding a sum of Rs.22,35,000/- (Rupees Twenty Two Lakh and Thirty Five Thousand only) for the claim of the 1st respondent herein / Ezhumalai, who had suffered injuries.

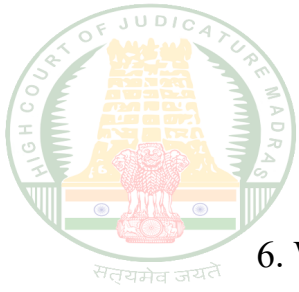
3. It was the case of the first respondent that he had suffered an accident on 30.07.2016 and consequent to the same, he preferred M.A.C.T.O.P.No.766 of 2016.

4. We have perused the notes papers. It would determine the flow of the case. A perusal shows that the matter had been listed for awaiting summons to



witness and adjourned to 20.06.2018, wherein it had been stated that though the summons had been served, the witness was called absent and it was then posted on 21.06.2018 for appearance of the witness. On 21.06.2018, the proof affidavit of R.W.1 was filed and Exhibits R1 to R5 were marked and he was also cross-examined. It was again adjourned for summons to witness on 10.07.2018. Thereafter, it was again adjourned on 24.07.2018. Finally, on 02.08.2018, arguments were advanced by both the learned counsel and the matter was reserved for passing orders and orders were pronounced on 14.08.2018, granting the claim as mentioned.

5. The learned counsel for the appellant, however, stated that the entire award granted by the Tribunal should be declared as nullity, in view of the fact that the claimant had died on 13.06.2018 even before the award was passed. It was pointed out by the learned counsel that after the death of the claimant, there had been atleast five separate hearings dated before the Tribunal, wherein the counsel for the claimant had also participated and actually cross-examined the witness for the respondent and had also advanced arguments, but the factum of death of the claimant had not been brought to the notice of the Tribunal. Any award passed against a dead person is naturally a nullity and cannot be considered as a judgment in the eye of law.

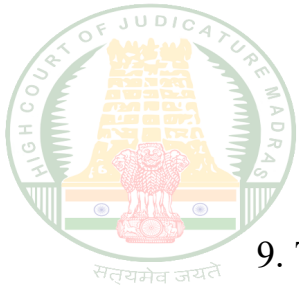


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6. We would necessarily have to set aside the award dated 21.08.2018 and remand the matter back to the Motor Accident Claims Tribunal/Additional Sub Court at Puducherry, to take necessary steps to bring on record the Legal Representatives of the claimant / Ezhumalai, S/o.Govindaswamy and thereafter, both the learned counsels shall advance arguments on the available pleadings and evidence adduced and a fresh award shall be passed by the Presiding Officer, Motor Accident Claims Tribunal, Puducherry/Additional Sub-Court, Puducherry in M.C.O.P.No.766 of 2016.

7. Accordingly, the judgment and decree dated 21.08.2018 passed in M.C.O.P.No.766 of 2016 on the file of the Learned Motor Accident Claims Tribunal/Additional Sub-Court, Puducherry is set aside and the matter is remanded back to the Motor Accident Claims Tribunal/Additional Sub-Court, Puducherry.

8. Registry is directed to forward all the papers back to the Motor Accident Claims Tribunal/Additional Sub-Court, Puducherry and on receipt of the records, the Tribunal is directed to dispose of the matter within a period of three (3) months from the date of receipt of a copy of the records.



9. The appellant and the respondents herein are directed to appear before the said Tribunal on 05.01.2026.

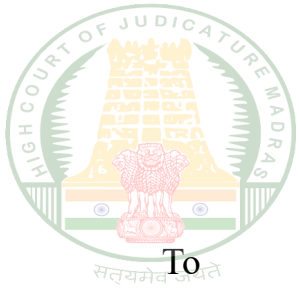
10. The Motor Accident Claims Tribunal may also consider the proportion of the award to be granted to the Legal Representatives of the deceased claimant.

11. The appellant herein is permitted to withdraw the amount deposited consequent to the award and pursuant to any direction of this Court and while withdrawing the amount, file an affidavit before the Motor Accident Claims Tribunal/Additional Sub-Court, Puducherry that they would abide by the award to be passed on fresh hearing in the said petition.

12. This Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K., J.) (K.B., J.)
05-12-2025

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



To

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1. The Motor Accident Claims Tribunal/
Additional Sub-Court, Puducherry.
2. The Section Officer,
VR Section, High Court,
Madras.
3. Ezhumalai (unsound Mind)
S/o. Govindasamy, Rep. By His Wife
And Next Friend Anjalatchi, No.1,
Chetty St, Kombakkam, Puducherry
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4. RAVISANKAR
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K.KUMARESH BABU, J.**

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