

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2015

CORAM

THE HONOURABLE MR.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.NO.621 of 2015

and

M.P.No.1 of 2011

- 1.The Tamil Nadu Minerals Limited,
Rep.by its Managing Director,
No.31, Kamarajar Salai, Chepauk,
Chennai 600 005.
 - 2.The Tamil Nadu Minerals Limited,
Rep.by its Divisional Manager,
Krishnagiri Division,
Krishnagiri.
- .. Appellant

Vs.

- 1.A.Sugumar
 - 2.Veston Automobiles System Pvt., Ltd.,
Keelakaranai Village,
Melrosapuram Post,
Singaperumal Koil,
Chengalpattu District.
 - 3.Oriental Insurance Co.,Ltd.,
Apex Chambers, 2nd Floor,
Thiyagaraya Road, T.Nagar,
Chennai 600 017.
- .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, (Fast Track Court No.III) Chennai, in M.C.O.P.No.1998 of 2002 dated 09.08.2007 as amended vide order dated 09.04.2011.

For Appellant : Mr.S.Sekhar

JUDGMENT

The appeal is directed against the order passed by the Motor Accident Claims Tribunal, (Fast Track Court No.III) Chennai, in M.C.O.P.No.1998 of 2002 dated 09.08.2007.

2.The Tipper lorry involved in the accident bearing No.TN-29-X-3789 belongs to the appellant company. It is the contention of the

appellant that the accident was due to the rash and negligent driving of the first respondent owner of Maruti Car. As the driver of the vehicle belonging to the appellant applied sudden brake, the bus belonging to the second respondent which was behind the lorry, lost control and dashed the appellant's vehicle and in the impact, the lorry colluded with the rear side of the maruti car. The contention of the appellant is that the Tribunal ought to have fixed the liability on the second respondent and absolve the liability of the appellant. But the Tribunal had awarded compensation to be paid only by the appellant's company. Aggrieved over the same, the appellant has come forward with the present appeal.

3. Heard the learned counsel for the appellant and perused the materials available on record.

4. The Tipper lorry which involved in the accident was also insured by the appellant with the New India Assurance Company and the Tribunal ought to have made them as a party to the proceedings. When the said Insurance company is not made a party before the Tribunal, the liability is fastened only on the appellant's company. The appellant cannot ask for impleading the Insurance company in the execution proceedings as the Executing Court cannot go beyond the award. The original petition was filed in the year 2002 and the judgment was passed only on 09.08.2007, the appellant had been keeping quite by not impleading the Insurance company with which their lorry was insured and after the award had been passed in the year 2007 which was also subsequently amended on 09.04.2011, the application to implead has been filed. Therefore, the appellant cannot now come up with such a claim to implead the Insurance company to the proceedings. As such, the appeal is not maintainable and the same deserves to be dismissed.

In the result, the Civil Miscellaneous Appeal is dismissed and the Appellant/Tamil Nadu Minerals Ltd is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. less the amount already deposited by them if any within a period of four weeks from the date of receipt of copy of this order. On such deposit being made, the claimant is permitted to withdraw the award amount after giving credit to the amount already withdrawn by him, if any. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar

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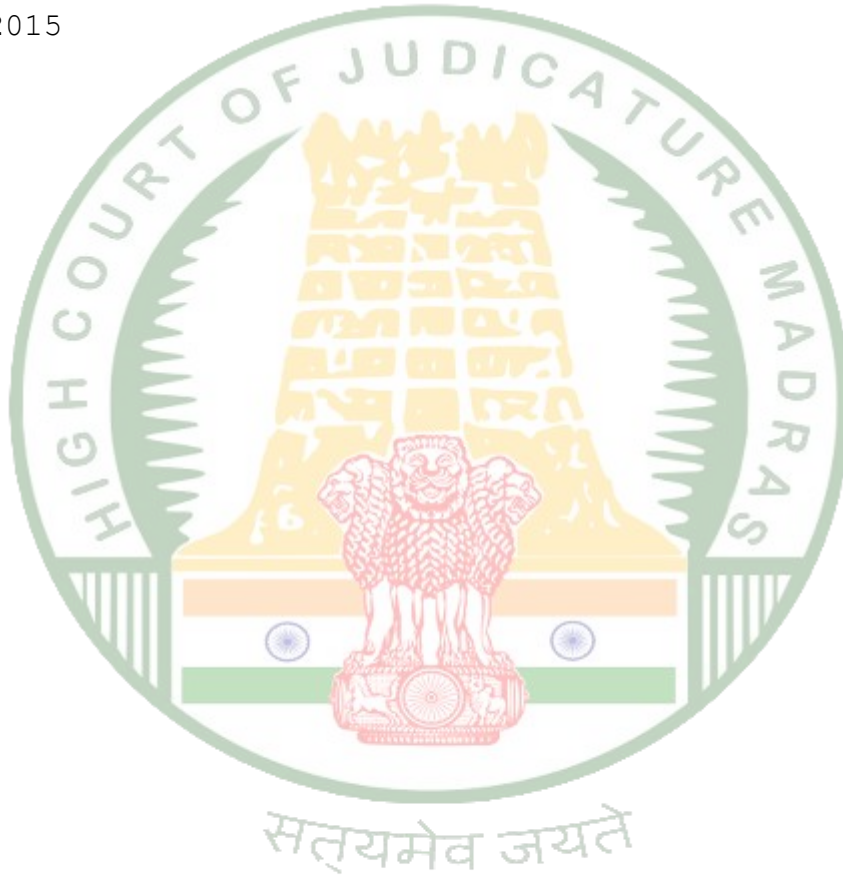
Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
(Fast Track Court No.III) Chennai.

C.M.A.No.621 of 2015
and M.P.No.1 of 2015

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