

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2208 of 2006
and
M.P.No.1 of 2006

The National Insurance Co. Ltd.,
Raja Street, Gobichettipalayam,
Erode, by its Branch Manager.

... Appellant/2nd Respondent

Vs.

1.N.M.Ramkumar
2.A.B.Viswanathan

... 1st respondent/claimant
... Respondent/1st respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.109 of 2005 dated 07.04.2006, on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Gobichettipalayam.

For Appellant : Mrs.Harini for
Mr.N.Vijayaraghavan

For Respondents : Mr.MA.P.Thangavel for R1

JUDGMENT

The appeal has been preferred by the Insurance Company against the award of Rs.3,85,000/- for the injury sustained by the 1st respondent in the accident, which occurred on 28.10.2003.

2. Heard the parties and perused the records.

3. Though the learned counsel for the appellant would submit that the policy covers the owner and the driver, the driver employed at the time of the accident was not driver, who was

permanently employed. However, no such condition is shown to be existing by filing the entire policy with terms and conditions. In view of that the contention raised by the appellant cannot be accepted. Therefore, the Tribunal rightly fixed the liability on the insured to be paid by the insurer.

4. The coverage is only to the tune of Rs.2 lakhs. Therefore, the multiplier method adopted by the Tribunal for 25% disability sustained by the 1st respondent is liable to be set aside. Since 25% disability was sustained by the 1st respondent, a sum of Rs.50,000/- is awarded awarding Rs.2,000/- per percentage of disability. Since a sum of Rs.1,39,000/- was spent by the 1st respondent towards medical expenses, as per Exs.P.9, P.10 and P.11, the same is confirmed. Towards pain and sufferings and extra nourishment together a sum of Rs.11,000/- is awarded. Totally a sum of Rs.2,00,000/- is hereby awarded as compensation. The rate of interest at 9% p.a. awarded by Tribunal stands unaltered.

5. This Civil Miscellaneous Appeal is partly allowed by reducing the award amount of Rs.3,85,000/- to Rs.2,00,000/- along with interest at 9% p.a. No costs. Consequently, connected miscellaneous petition is closed.

6. The appellant-Insurance Company is directed to deposit the entire amount along with interest and costs, after adjusting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such depositing made, the 1st respondent is permitted to withdraw the entire amount along with accrued interest, after adjusting the amount if any already withdrawn, within one week thereafter.

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar.

Vsm

To

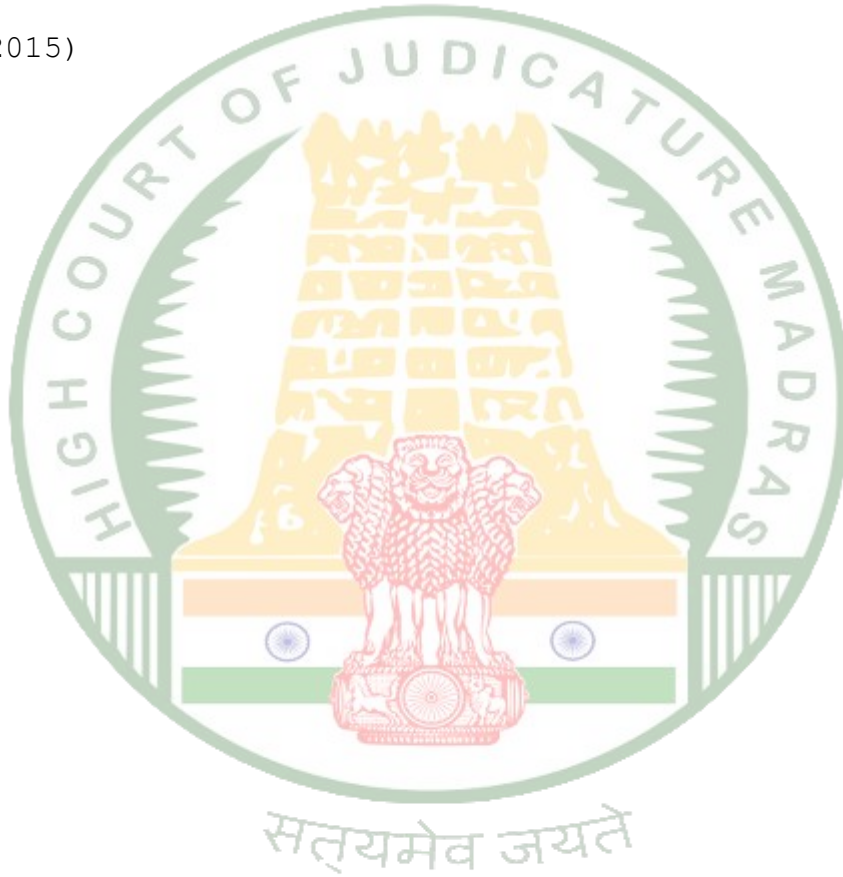
The Principal Sub Court,
Motor Accidents Claims Tribunal,
Gobichettipalayam.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.4285

+1cc to Mr.P.Thangavel, Advocate, S.R.No.3959

C.M.A.NO.2208 of 2006

VD(CO)
EU(26/02/2015)



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