

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1003 of 2016

&

C.M.P.No.7608 of 2016

The National Insurance Company Ltd.,
Cuddalore. Appellant/2th Respondent
vs.

1. Minor Bhavani
(Rep. by her next friend Mother Rajalakshmi as
Guardian)1st Respondent/Claimant
2. K.Shankaravel 2nd Respondent/2nd
Respondent

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decreetal order dated 26.02.2014 passed in M.C.O.P.No.1481 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.S.Vadivel

JUDGMENT

This appeal is filed by the Insurance Company challenging the award dated 26.02.2014 by the Tribunal made in M.C.O.P.No.1481 of 2009 on the file of the Motor Accidents Claims Tribunal, (Principal Subordinate Judge), Cuddalore.

2. In an accident which occurred on 08.08.2009, whereby the appellant's Mini Door vehicle bearing Reg.No.TN 31 F 1375 was driven by its driver in a rash and negligent manner and dashed against the bicycle in which 1st respondent/claimant, who is aged about 6 years, had sustained grievous injuries all over the body. Immediately, she was taken to Government Hospital, Cuddalore and thereafter, took further treatment in various private hospitals. Hence, she filed a Claim Petition before the Tribunal seeking a sum of Rs.5,00,000/- as compensation. After analysing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.35,000/- as compensation, under the following heads:

Heads	Amount
Permanent Disability at 10%	Rs.20,000.00
Pain and Sufferings	Rs.10,000.00
Extra Nourishment	Rs. 2,000.00
Transportation	Rs. 1,000.00
Medical Expenses	Rs. 2,000.00
Total	Rs.35,000.00

3. Resisting the claim, the appellant-Insurance Company has filed the counter stating that the driver of the Mini Door vehicle drove with due care and caution observing traffic rules and he was not rash and negligent at the time of accident. He further contended that the FIR was registered on 11.08.2009, though the accident took place on 08.08.2009 and the vehicle in question has been inspected and report has been filed as Ex.P2-MVI Report and that the FIR against the said vehicle has been referred as 'Mistake of Fact' and the compensation claimed by the respondent/claimant is baseless and excessive.

4. Before the Tribunal, the respondent/claimant examined two witnesses and marked Exs.P1 to P8 and on the appellant's side, RW1 was examined and Ex.R1 was marked. Considering the Accident Report and the statement made by PW1, the Tribunal came to the conclusion that the appellant/Insurance Company is liable to pay the compensation of Rs.35,000/-. I find that there is no reason to interfere with the findings of the Tribunal, more particularly when the claimant, who is a school going child has sustained several injuries. Since the compensation of Rs.35,000/- awarded by the Tribunal is meagre, this Court is not inclined to interfere with the same.

5. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016 scrupulously. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

6. The Appellant Insurance Company is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition to the credit of M.C.O.P.No.1481 of 2009 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit

being made, the Tribunal is directed to deposit the entire award amount in a Fixed Deposit Scheme in any Nationalised Bank, initially for a period of three years renewable thereafter and the interest accrued on such deposit shall be withdrawn by the mother of the minor claimant once in three months, till the claimant attains majority.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

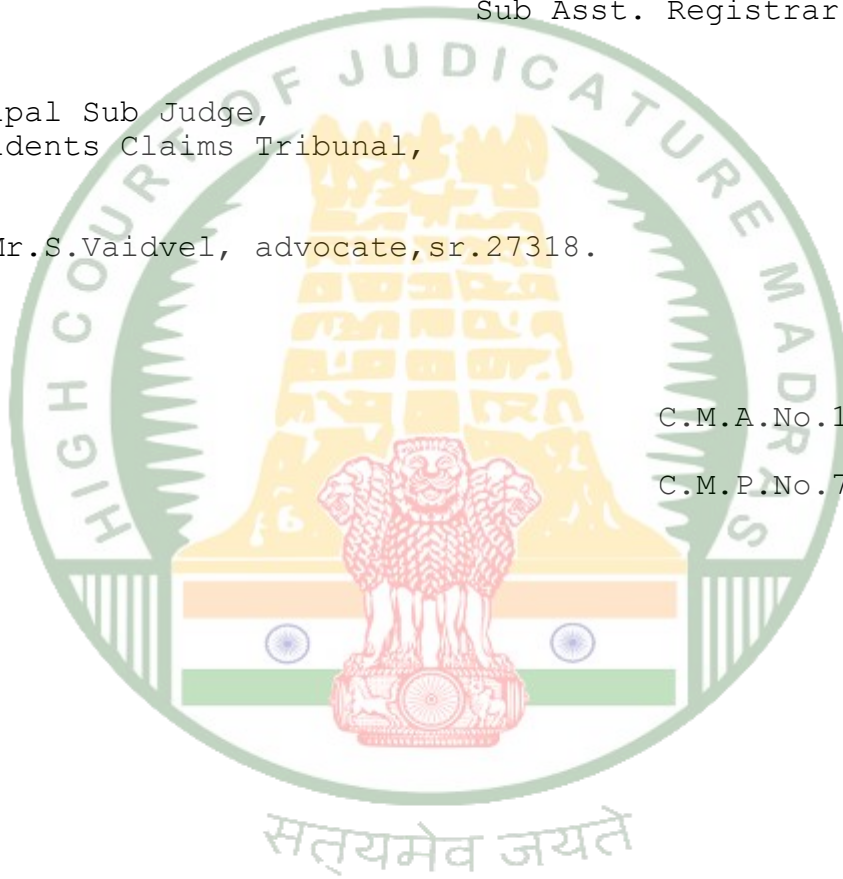
To

The Principal Sub Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

+1 cc to Mr.S.Vaidvel, advocate,sr.27318.

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