

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2639 of 2011

The Divisional Manager,
The New India Assurance Co. Ltd.,
No.106, Periya Street,
Thiruvannamalai.

... Appellant/2nd Respondent

vs.

1. Shanthi ... 1st Respondent/Petitioner
2. Ranganathan ... 2nd Respondent/1st Respondent
(2nd respondent set exparte before Lower Court)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.536 of 2004, dated 01.09.2006 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Thiruvannamalai.

For Appellant : Mr.N.Vijayaraghavan

For 1st Respondent : Ms.M.Malar

J U D G M E N T

The Insurance Company has come up with this appeal mainly challenging their liability to compensate the claimant.

2. For the injuries sustained by the 1st respondent/claimant in an accident which occurred on 22.05.2003, the Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.1,40,000/- as compensation under the following heads along with interest at 7.5% per annum.

Heads	Compensation awarded by the Tribunal
Loss of income	Rs.1,20,000/-
Pain and suffering	Rs. 10,000/-
Transportation and Medical expenses	Rs. 10,000/-
Total	Rs.1,40,000/-

3. Heard the learned counsel on either side and perused the material documents available on record.

4. According to the injured claimant, he has been working as a coolie by loading and unloading goods in the Lorry belonging to the 2nd respondent herein. The Tribunal, on consideration of the oral and documentary evidence held that the alleged accident took place only due to the rash and negligent driving of the driver of the Lorry. Though the Tribunal has rendered a finding that the injured claimant has travelled as an unauthorised passenger in the Lorry, based on the Investigation Report filed by the Investigating Officer, it has ordered pay and recovery, i.e. the Insurance Company has to pay the compensation to the claimant and later recover the same from the owner of the Lorry in question, i.e. the 2nd respondent herein. Further, in view of the ruling of the Apex Court in the case of National Insurance Co. Ltd. vs. Baljit Kaur and others (2004 ACJ 428) that the Insurance company shall pay and recover from the owner of vehicle, I do not find any reason to interfere with the order passed by the Tribunal with regard to liability. Also, considering the nature of injuries sustained by the claimant, i.e. crush injuries and amputation of fingers, this Court is not inclined to interfere with the compensation awarded to him.

5. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Insurance Company is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.536 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Thiruvannamalai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, claimant shall be paid the entire award amount along with accrued interest by means of a crossed Account Payee

Cheque, favouring only him and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2011 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

aeb

To:

The Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Thiruvannamalai.

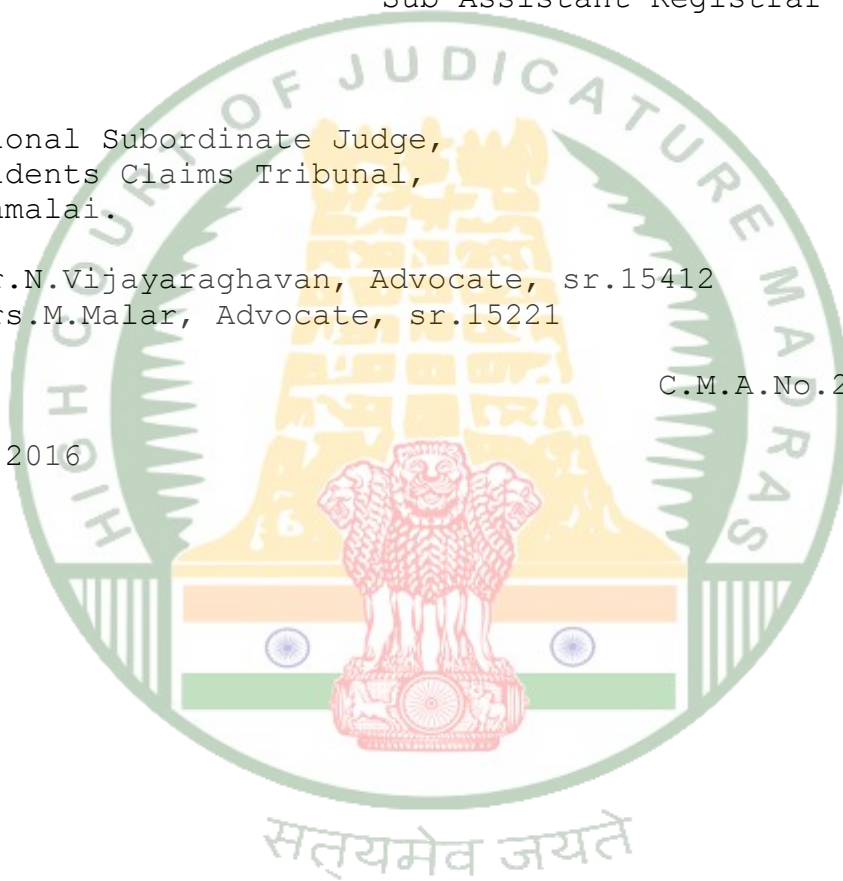
1 cc to Mr.N.Vijayaraghavan, Advocate, sr.15412

1 cc to Mrs.M.Malar, Advocate, sr.15221

C.M.A.No.2639 of 2011

scd co

kra 14.09.2016



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