

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HON'BLE MR.JUSTICE N. SESHASAYEE

C.M.A.No.2155 of 2008
and M.P.No.1 of 2008

The Divisional Manager,
National Insurance Co. Ltd.,
Divisional Office,
No.29, Officer's Line, Lakshmi Theatre,
Vellore. Appellant/Respondent

Vs
Uthira Kumar Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.83 of 2007 dated 23.08.2007 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court (Fast Track Court), Vellore.

For Appellant : Mr.N.Vijayaraghavan

For Respondent : No appearance

JUDGMENT

It is a case where the respondent before this Court is the owner of the vehicle cum claimant before the Tribunal. In cases such as these ordinarily the appeal may have to be allowed on the ground that insurance policy is meant to indemnify only the third party claimants of the insured but does not entitle the insured to claim for himself. The learned counsel has also cited a few decisions in support of the stand of insurer.

2. While that may be true, this Court is inclined to look at the totality of circumstances that the ultimate award for the injury claim is only Rs.21,000/- less than even the no fault liability under Section 142 of Motor Vehicles Act, 1988, which has a non-obstante clause as well. Further it is over 12 years since the date of accident and no purpose would be served in keeping the appeal pending.

3. Accordingly, in the interest of justice, this Court is inclined to dismiss the appeal for the sole reason that the stakes involved are too low and it may not be necessary to deny the benefit of the claim for an innocent injured claimant. This order is pronounced in the peculiar circumstances of this case and shall not be construed as a precedent where similar claims may arise. Hence, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

4. If the insurer has not already satisfied the award they shall do so within six weeks from the date of receipt of the order copy whereupon the claimants would be entitled to receive the same forthwith.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Additional District and Sessions Court (Fast Track Court),
Vellore.

+1cc to Mr.N.Vijayaraghavan, Advocate Sr.71533

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srg 7/3/2017

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