

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.11.2016

CORAM

THE HON'BLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2450 of 2009

Mubarak Basha

.. Appellant/Petitioner

.. Vs ..

1.Vettrikani

2.The Divisional Manager,

United Insurance Company Limited,

No.46, Katpadi Road, Vellore. ..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 30.06.2006 passed in M.A.C.T.O.P. No.206 of 2004 on the file of the Motor Accidents Claims Tribunal, Principal Sessions Judge, Thiruvannamalai.

For Appellant : Mr.F.Terry

For Respondents: Mr.D.Baskaran for R2

JUDGMENT

This civil miscellaneous appeal is preferred by the claimant against the judgment and decree dated 30.06.2006 passed in M.C.O.P. No.206/2004 on the file of the MACT (Principal District Judge), Thiruvannamalai.

2. The appellant is a driver of an auto Rickshaw bearing registration No.TN-25D-1739, owned by the first respondent and the appellant was working under him. It is an admitted fact that due to the negligence of the appellant, he met with an accident in which he suffered major injuries. The claimant moved the MACT claiming compensation of Rs.1,00,000/-. The Tribunal determined the compensation payable at Rs.68,750/- and reduced it by 50% as it found that the claimant's negligence has resulted in the accident and awarded a compensation of Rs.34,375/- and directed that the same be paid with interest @ 7.5% per annum. The said amount has been deposited and the same has been withdrawn by the claimant.

3. Heard both sides. Learned counsel for the appellant argued vehemently and took this Court through meticulous details of facts as well as the liability of the Insurance Company. The Insurance Company has not challenged the finding

of the Tribunal regarding the negligence as well as the claim of the Tribunal award. Since the accident has taken place on 16.07.2002 and claimant has been suffering from injuries for over 12 years this Court considers it appropriate to allow this appeal guided in the process solely by the circumstances attending the accident.

4. In the result, the civil miscellaneous appeal stands allowed but without costs and the insurance company is directed to deposit the balance 50% of the compensation with interest @ 7.5% per annum whereupon the appellant is directed to withdraw the same forthwith.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

2. The Section Officer, VR Section,
High Court, Madras.

+lcc to M/s. D. Baskaran, Advocate, S.R.No.68376

+lcc to M/s. F. Terry, Advocate, S.R.No.68149

CNR(CO)
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