

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.1646 of 2014

Ilamai Azhagan

.. Appellant/Claimant

Vs.

1. Natarajan

2. United India Insurance Company Limited,
No.134, Greams Road,
Chennai-600 006.

.. Respondents

Prayer:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, against the award dated 24.09.2013 made in M.C.O.P.No.73 of 2012 on the file of the learned III Judge, MACT, III Court of Small Causes, Chennai.

For Appellant : Mr.Terry Chella Raja
for Mr.V.Velu

For Respondents : R1-Ex-parte
Mrs.R.Vijaya Kamala, for R2

JUDGMENT

[Judgement of the Court was delivered by C.T.SELVAM, J]

This Civil Miscellaneous Appeal has been preferred against the award dated 24.09.2013 made in M.C.O.P.No.73 of 2012 on the file of the learned III Judge, MACT, III Court of Small Causes, Chennai.

2. Heard learned counsel for appellant and learned counsel for second respondent.

3. Appellant is the claimant. First respondent is the owner of vehicle involved in an accident and the second respondent is the Insurance Company. On 4.10.2011 at about 15.30 hours, the appellant/claimant, while riding a motorcycle

bearing registration No.TN-20-BX-1338 from Mulakadai to Madhavaram, sustained grievous injuries, owing to an accident involving a Lorry bearing registration No.AP-04-T-3546, which was driven by its driver in rash and negligent manner. Appellant preferred claim of Rs.35,00,000/- in M.C.O.P.No.73 of 2012 on the file of III Court of Small Causes, Chennai.

4. Before the Tribunal, on the side of appellant/claimant, 3 witnesses were examined and 19 exhibits was marked. None were examined on the side of second respondent/Insurance Company nor any exhibits were marked.

5. On appreciation of materials before it, Tribunal awarded a total compensation of Rs.6,23,000/- under various heads. Against which, appellant/claimant preferred the present Civil Miscellaneous Appeal.

6. This Court finds no substantial reason made by learned counsel for second respondent/Insurance Company that appellant/claimant has lost his earning capacity. Ex.P10 Termination Letter reveals that the claimant had been dismissed from service owing to absenteeism. We are not able to rely on the evidence of PW-3 who has spoken about the appellant/claimant being engaged in travelling up and down in the vehicle towards checking in the course of the employment and when we consider the position that his claim is that he is a Bill Operator. This Court finds no reason to interfere with the award under challenge.

7. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 24.09.2013 made in M.C.O.P.No.73 of 2012 on the file of the learned III Judge, MACT, III Court of Small Causes, Chennai, is confirmed. No costs.

8. Second respondent/Insurance Company is directed to deposit the entire amount awarded by the Tribunal, less that already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. Appellant/claimant is at liberty to withdraw the amount on due application as apportioned by Tribunal.

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Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

kmi

To:

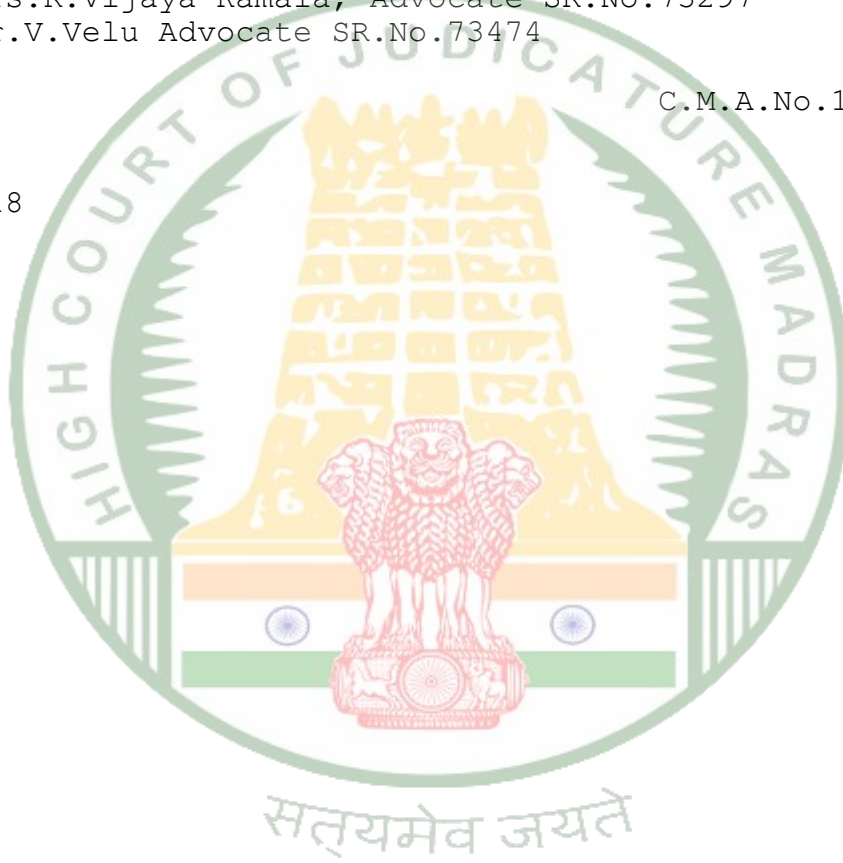
1. The III Judge,
Motor Accident Claims Tribunal,
III Court of Small Causes,
Chennai.
2. The Section Officer,
V.R.Section,
High Court,
Madras-104.

+1cc to Mrs.R.Vijaya Kamala, Advocate SR.No.73297

+1cc to Mr.V.Velu Advocate SR.No.73474

C.M.A.No.1646 of 2014

RK(CO)
CS/25/05/18



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