

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.794 of 2001

and CMP.No.10321 of 2001

United India Insurance Co. Ltd.,  
Having Branch Office at  
No.24, Whites Road,  
Chennai - 600 014.

... Appellant/2<sup>nd</sup> Respondent

Vs.

1.Achutha Rama Raju  
2.S.Velayutham  
3.Chellappa Nadar

... 1<sup>st</sup> Respondent/Petitioner

4.New India Assurance Co. Ltd.,  
46, Moore Street  
Chennai - 600 001.

(R2 & R3 Ex parte in the lower Court)

... Respondents 2 to 4/Respondents 1,3 & 4

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of M.V.Act against the judgment and decree dated 22.12.2000 made in MCOP.No.253 of 1987 on the file of the Motor Accident Claims Tribunal (Additional Sub-Judge) at Chengalpattu.

For Appellant : Ms.Revathi Muralidharan

For Respondents : Mr.E.Arumugham for R1 [No appearance]

Mr.S.Jayashankar for R4

JUDGMENT

This appeal is preferred by the insurance company of one of the two vehicles involved in a road accident that took place on 11.12.1986. It challenges the extent of its liability.

2. The brief facts necessary for the purpose are : On 11.12.1986 at about 3.00 p.m., there took place an accident on the G.S.T Road between Urapakkam and Vandalur, involving a van bearing registration No.TCW 1023 and a lorry bearing registration No.TMI 3699. The claimant was travelling in the van. For the injuries suffered, the claimant had moved the Tribunal with a

claim for Rs.1,20,000/- as compensation, but the Tribunal has passed an award for Rs.1,14,000/- payable with 11% interest from 24.3.2000, till the realization of the entire amount. However, the Tribunal had apportioned the liability equally between the insurance company of both the vehicles and accordingly, fastened the liability to the extent of 50% on the appellant. The extent of liability so fastened is under challenge.

3. The learned counsel appearing for the appellant submitted that the accident has taken place when Motor Vehicles Act, 1939, was in force and the extent of liability of a passenger vehicle is to the extent of Rs.15,000/- per passenger. However, the learned counsel conceded that the insurance company has not filed the policy of the insurance before the Tribunal and now it is filed Vide CMP.No.10321 of 2001.

4. The accident has taken place thirty one years from now. Prima facie, this Court does not want to interfere with the award at this distant point of time. Further, even if one is to look into the matter, the burden is clearly on the appellant to produce the policy. The appellant has not considered it necessary to file the insurance policy before the Tribunal, when the burden on it to justify its defence of limited liability. This Court is not satisfied with the reasons adduced for the non-production of the insurance policy before the Tribunal.

5. In the result, I find no merit in the appeal and the same is dismissed, thereby confirming the order of the trial Court and the appellant is directed to deposit the award amount as determined by the Tribunal, less if any amount already deposited, within a period of four weeks from the date of receipt of a copy of this order. However taking into consideration the facts and circumstances of the case, I order no costs. Consequently connected miscellaneous petition is also dismissed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

To:

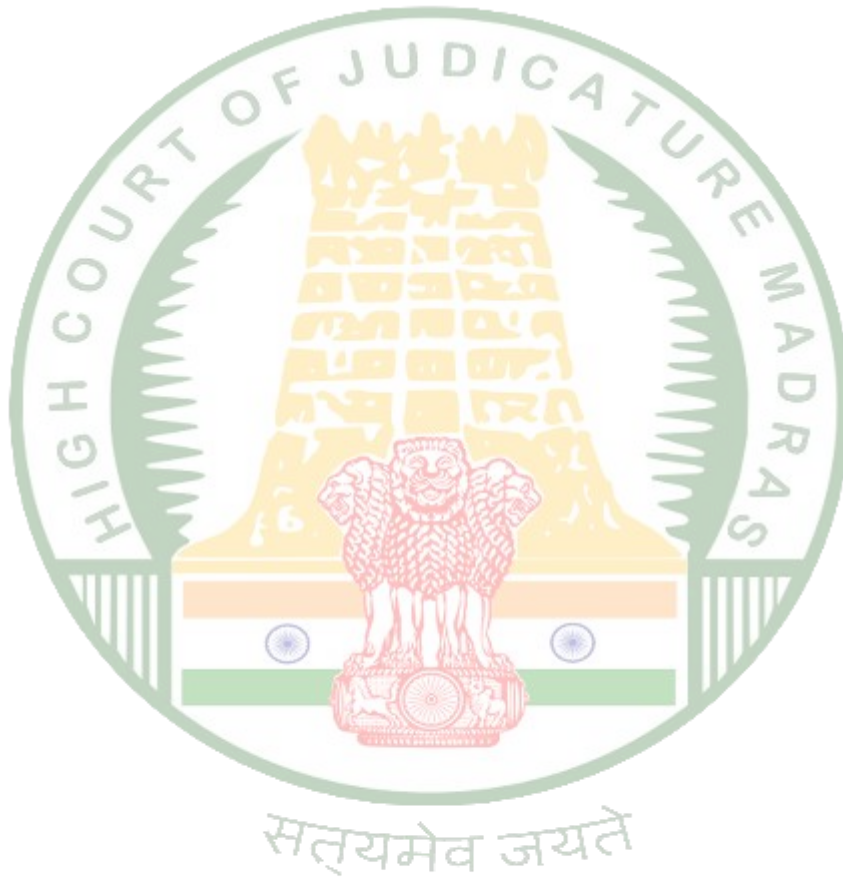
1.The Additional Sub Judge  
Motor Accidents Claim Tribunal  
Chengalpattu.

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

+lcc to Mrs.N.Mala, Advocate sr.no.72245

C.M.A.No.794 of 2001

pvs (co)  
nr 05/02/2018



WEB COPY