

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1248 of 2008

Karuppasamy

.. Appellant

..Vs..

1.Anandhan

2.The United India Insurance Company Ltd.,
Branch Officer,
No.50-A, Pallivasal Street,
Perambalur

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and decretal order in MCOP.No.157 of 2005 dated 21.11.2007 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.S.Kamadevan

For Respondent 2 : Mr.T.Ravichandran

Not ready in notice for R1

J U D G M E N T

The instant appeal has been filed by the claimant against the order of dismissal of the Motor Accident Claim namely MCOP No.157 of 2005 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Perambalur) by its Judgment and Decree dated 21.11.2007.

The brief facts leading to the filing of the instant appeal are as follows:-

2. According to the Appellant, he sustained injuries on 19.10.2004 as a result of an accident caused by a mini lorry bearing registration No.TN46-B-1074 owned by the first respondent and insured with the second respondent. He preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.157 of 2005 seeking a compensation of Rs.2,00,000/-. The Motor Accident Claims Tribunal by its Award dated 21.11.2007 in MCOP.No.157 of 2005, dismissed the claim of the Appellant on the ground that the name of the Appellant does not find place in the First Information Report which was marked as Ex.P1 before the Tribunal.

3. Aggrieved by the rejection of the claim of the Appellant, the instant appeal has been filed.

4. Heard Mr.S.Kamadevan, learned counsel for the Appellant and Mr.T.Ravichandran learned counsel for the second respondent. There is no representation on the side of the first respondent. Notice sent to the first respondent has been returned with an endorsement "Person not found". Since this Court is going to confirm the findings of the Tribunal, there is no necessity to serve the notice in this Appeal on the first respondent.

5. According to the learned counsel for the Appellant, since both the respondents were set ex parte by the Tribunal, based on an erroneous finding that the name of the Appellant does not find a place in the First Information Report, the claim was rejected by the Tribunal.

6. Per contra, learned counsel for the second respondent would submit that the Tribunal has rightly rejected the claim, since the subject vehicle insured with the second respondent was not involved in the accident. The learned counsel for the second respondent would further contend that the complaint, based on which, the First Information Report was registered, was given by the first respondent who is the owner of the vehicle and he was also set ex parte before the Tribunal.

7. This Court has examined the impugned Award. The Appellant has filed five documents before the Tribunal namely First Information Report (Ex.P1), Discharge Summary from the hospital (Ex.P2), Insurance Policy (Ex.P3), Driving Licence (Ex.P4) and an X-ray (Ex.P5) and has also examined himself as a witness.

8. As seen from the First Information Report, the complaint was given by the first respondent and not by the Appellant who is the claimant. Further the First Information Report also does not disclose the name of the Appellant. In all Motor Accident Cases, the burden of establishing that the claimant had sustained injuries as a result of the accident is on the claimant. The only document filed by the Appellant before the Tribunal about the alleged accident is the First Information Report. Apart from the First Information Report, the other documents do not disclose any particulars about the alleged accident. In such circumstances, the Tribunal has rightly rejected the claim of the Appellant.

9. This Court is in agreement with the said finding given by the Tribunal. Accordingly there is no merit in the Appeal and the Appeal is dismissed without costs.

सत्यमेव जयते

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Index:Yes/No

Internet:Yes/No

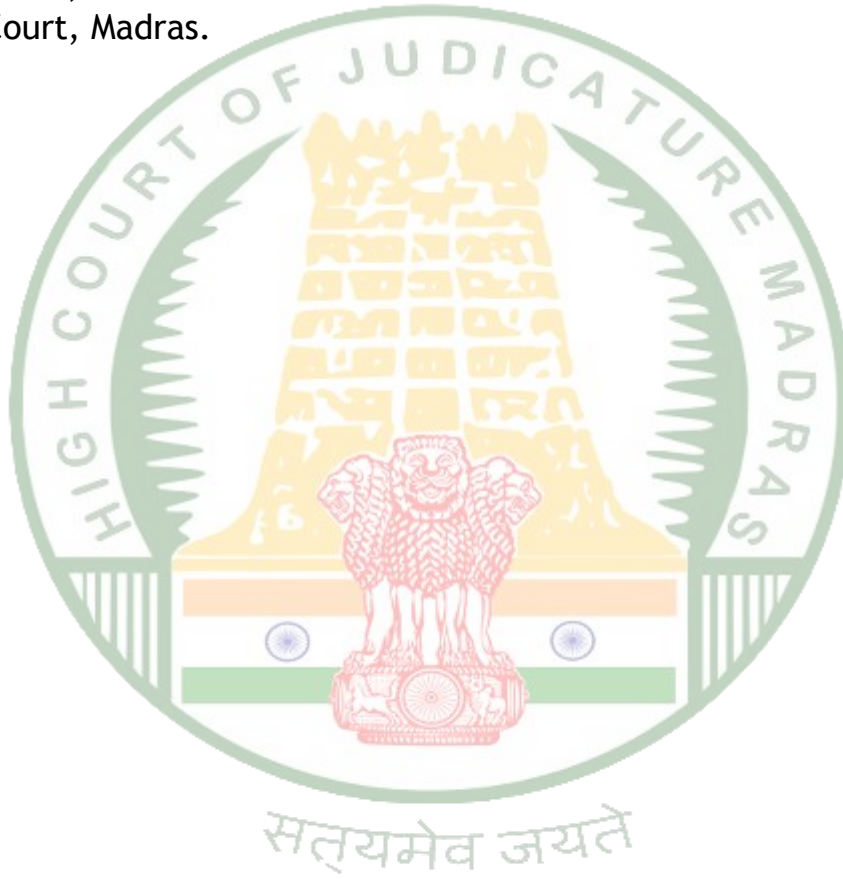
Speaking/Non-speaking orders

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To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Perambalur.

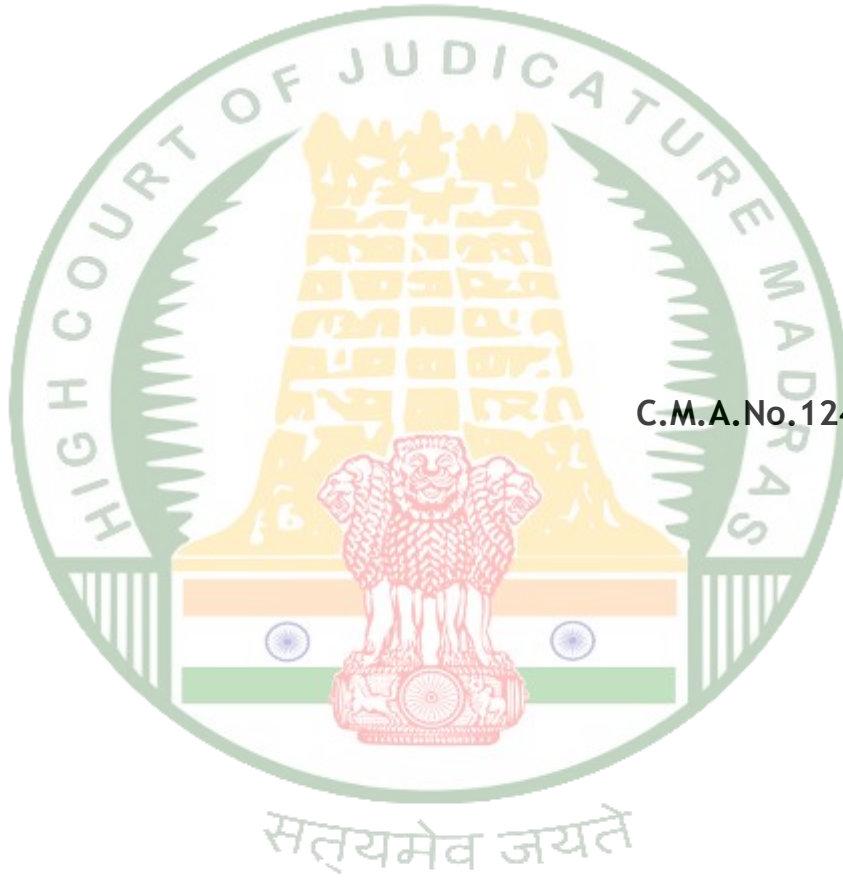
2. The Section Officer,
VR Section,
High Court, Madras.



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ABDUL QUDDHOSE, J.

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