

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A.No.2069 of 2018 and
C.M.P.No.16106 of 2018

A.Dominic Sagaya Susairaj .. Appellant

P.Raja .. Respondent

PRAYER: This Civil Miscellaneous appeal is filed under Order 43 Rule 1 (d) of C.P.C., against order dated 01.08.2016 in I.A.No.844 of 2016 in M.C.O.P.No.474 of 2013 on the file of the Motor Accidents Claims Tribunal / Special Subordinate Judge, Krishnagiri.

For Appellant : Mr.V.Nicholas

JUDGMENT

This Civil Miscellaneous Appeal is filed against the order made in I.A.No.844 of 2016 in M.C.O.P.No.474 of 2013 dated 01.08.2016 on the file of the Motor Accidents Claims Tribunal / Special Subordinate Judge, Krishnagiri.

2. It is the case of the appellant that the appellant is the owner of the vehicle and he was set exparte in the order made in M.C.O.P.No.474 of 2013 dated 29.10.2013 on the file of the Motor Accidents Claims Tribunal / learned Subordinate Judge, Krishnagiri. Thereafter the appellant filed an Interlocutory application under Order IX Rule 13 and Section 151 of C.P.C. in I.A.No.844 of 2016 to set aside the order dated 29.10.2013 made in M.C.O.P.No.474 of 2013.

3. After hearing both sides, the Tribunal has allowed the said Interlocutory application on condition that the appellant shall deposit 25% of the award amount within 20.06.2016. Since the order was not complied till 01.08.2018, the Tribunal has dismissed the application in I.A.No.844 of 2016 which is challenged in this Civil Miscellaneous Appeal.

4. Today when the matter was taken up for hearing, the appellant has made a representation that unless the compensation ordered by fixing the liability either to the owner of the vehicle or to the insurance company, the question of deposit will not arise for consideration. Alternatively, the learned counsel submitted that the appellant may be permitted to pay some amount towards cost for 70 days.

5. In view of the said submission, this Court is inclined to accept the said representation, since he is only the owner of the vehicle as per records.

6. Under these circumstances, this Court is inclined to pass the following order:

a) This CMA is allowed on condition that the appellant is directed to pay a sum of Rs.25,000/- to the Superintendent, Government Hospital of Thoracic Medicine, Tambaram Sanatorium, Chennai - 600 047 within a period of four weeks from the date of receipt of a copy of this order, failing which the order passed in I.A.No.844 of 2016 will be dismissed automatically without any further reference.

b) On production of the receipt of payment, the Tribunal is directed to restore the case in M.C.O.P.No.474 of 2013 and dispose of the same within a period of four months thereafter.

7. With the above direction, this Civil Miscellaneous Appeal is allowed. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vum

To
Sub Judge
(MACT), Krishnagiri

+1cc to Mr.V.Nicholas, Advocate SR.NO.63119

MG(CO)
sm:10.10.2018

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