

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.BASKARAN

C.M.A.No.1964 of 2017
and C.M.P.No.10627 of 2017

Oriental Insurance Co.,Ltd.,
Regional Office
Post Box No.1877,
No.8, Esplanade,
Chennai-600 108

..Appellant/2nd respondent

Vs

1.Elumalai

2.R.Srinivasan

..Respondents/Petitioner 1st
Respondent

Civil Miscellaneous appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decree of the Motor Accidents Claims Tribunal/Fast Track Court, Kallakurichi, dated 24.08.2004, made in MACT.O.P.No.492 of 2003.

For appellant : Mr.N.Vijayaraghavan

For respondents :

for R1 : Mr.A.G.Rajan

for R2 : Notice dispensed with since R2
remained exparte before the Tribunal

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J U D G M E N T

The appellant/Insurance Company, aggrieved over the award passed by the Tribunal/Fast Track Court, Kallakurichi, dated 24.08.2004, made in MACT.O.P.No.492 of 2003, has preferred this Civil Miscellaneous Appeal.

2. For convenience sake, the parties are referred to hereunder according to their litigative status before the

Tribunal. The Petitioner/injured while driving his TVS 50 Motor cycle on 29.01.2001, at 22.00 hours, met with an accident caused due to rash and negligent driving of the Mini Lorry bearing Reg.No.TN-32-X-9600 owned by the 1st respondent resulting in serious head injury to the petitioner. A case was registered against the driver of the said Mini Lorry as exhibited by Ex.P.1-FIR and the petitioner herein took treatment in a private hospital in Salem and underwent surgery and the same is supported by Ex.P.2-Copy of Accident Register and Discharge Summary marked as Ex.P.5. The Petitioner also produced bills towards medical expenses and the same is marked as Ex.P.4 series. Thus, the petitioner contends that the injury occurred only due to rash and negligent driving of the 1st respondent mini lorry driver, hence, sought for compensation of Rs.3,00,000/-.

3. On the other hand, opposing the claim of the Petitioner, the 2nd respondent/Insurance Company contended that on the date of accident, 1st respondent vehicle was not insured with the 2nd respondent and the Insurance Coverage has been expired on 27.01.2001 itself. Since the accident occurred on 29.01.2001 and the Policy was renewed only on 31.01.2001, the 2nd respondent contends that they are not liable to pay any amount as compensation as there was no insurance on the date of accident. The 2nd respondent also disputed the other contentions of the petitioner and stated that the accident took place only due to careless driving of the petitioner and not due to negligence of the 1st respondent Mini Lorry driver. Hence, the 2nd respondent sought for dismissal of Petition.

4. The Petitioner examined himself as P.W.1 and produced documents Ex.P.1 to Ex.P.5 to substantiate his claim. On the other hand, the 2nd respondent has not produced any oral or documentary evidence.

5. The trial court, on a careful consideration of materials placed before it, found that the driver of the 1st respondent vehicle is responsible for the accident and awarded a sum of Rs.87,000/- as compensation. Aggrieved over the same, the 2nd respondent/Insurance Company has come forward with the present appeal.

6. When the matter was taken up today, the learned counsel appearing for the 2nd respondent/appellant/Insurance Company filed a Memo stating that already entire Award amount of Rs.87,000/- with interest and cost was deposited before the Tribunal and the amount has also been withdrawn by the claimant and nothing survives in the appeal. Hence, the learned counsel for the appellant/Insurance Company sought for dismissal of the appeal as infructuous.

7. The Memo filed by the 2nd respondent/appellant/Insurance Company is recorded. In view of the same, this Civil Miscellaneous Appeal is dismissed as infructuous. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Motor Accidents Claims Tribunal,
(Addl.District Judge, Fast Track Court.) Salem.

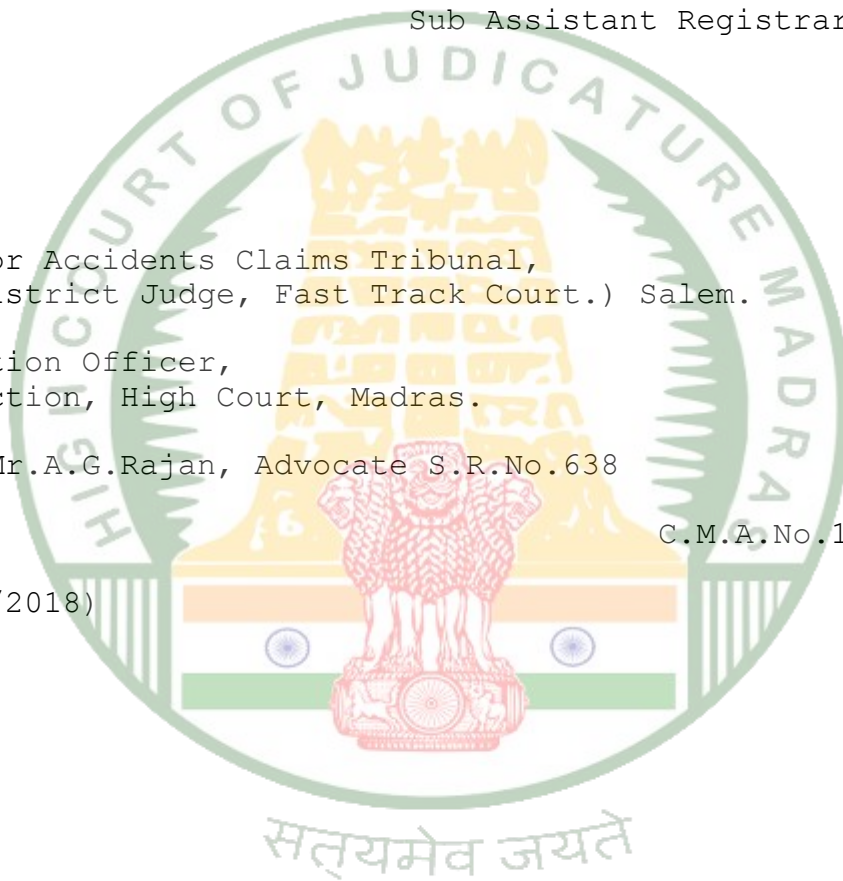
2.The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.A.G.Rajan, Advocate S.R.No.638

C.M.A.No.1964 of 2017

PVS (CO)

RRk(16/02/2018)



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