

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1081 of 2007

National Insurance Co., Ltd.,
7, Raja Street,
Gobichettipalayam.

... Appellant

vs.

1.Balasubramani
2.K.C.Arumugam
(2nd respondent exparte in Lower Court
and hence notice may be dispensed with) ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 28.07.2006 made in M.C.O.P.No.1357 of 2002, on the file of the Motor Accident Claims Tribunal (Fast Track Court No.4) Coimbatore at Tiruppur.

For appellant : Mr. M.B.Raghavan

For 1st Respondent : Mr.S.S.Swaminathan

J U D G M E N T

The appellant-insurance company is aggrieved by the fair and decretal order dated 28.07.2007 passed by the Motor Accident Claims Tribunal, (Fast Track Court No.4) Coimbatore at Tiruppur in M.C.O.P.No.1357 of 2002. For brevity hereinafter referred to as the Tribunal and the impugned order respectively.

2. On 25.11.2001, at about 5.30 hrs., the 1st respondent-Claimant while riding his bicycle was injured in an accident involving a jeep belonging to the 2nd respondent insured with the Appellant.

3. It was alleged that the 2nd respondent's jeep was driven in a rash and negligent manner and caused accident and injured the 1st respondent-claimant.

4. At the time of accident, the 1st respondent-claimant was stated to have been earning a sum of Rs.4,000/-p.m as a tailor at Tiruppur Garments.

5. By the impugned order, the Tribunal has awarded a sum of Rs.92,000/- together with interest at 7.5% from the date of the claim petition to the 1st respondent-claimant. Details of the amount awarded as compensation are as under:-

Pain and suffering	Rs. 20,000-
Permanent disability and loss of future income	Rs. 72,000/-
Total	Rs. 92,000/-

6. Aggrieved by the impugned order, the appellant-insurance company is on appeal before this Court.

7. The principal ground on which the impugned order has been challenged is that there is a discrepancy in the date of the accident in the Accident Register marked as Ex.P.4 and the date mentioned in the claim petition.

8. It is submitted by the learned counsel for the appellant-insurance company that the alleged accident is said to have taken place on 25.11.2001 as per the claim petition whereas Ex.P.4 Accident Register shows that the date of accident as 20.11.2001. Therefore, the compensation was wrongly awarded by the Tribunal.

9. The original of the said exhibit was called for and examined. However, after perusing the date mentioned in Ex.P.4 it is noticed that the date is 25.11.2001 and not 20.11.2001 as alleged by the appellant.

10. The handwriting of the author of Ex.P.4 is artistic. Therefore, a fleeting glance of Ex.P.4 may give rise to a doubt as to the correct date as was submitted by the appellant-insurance company. However, on closer examination it clear that it is dated 25.11.2001.

11. Therefore, the argument of the Appellant-Insurance Company that there is a discrepancy in the date is not correct. Therefore, the appeal is liable to be dismissed.

12. Accordingly, this civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

kkd

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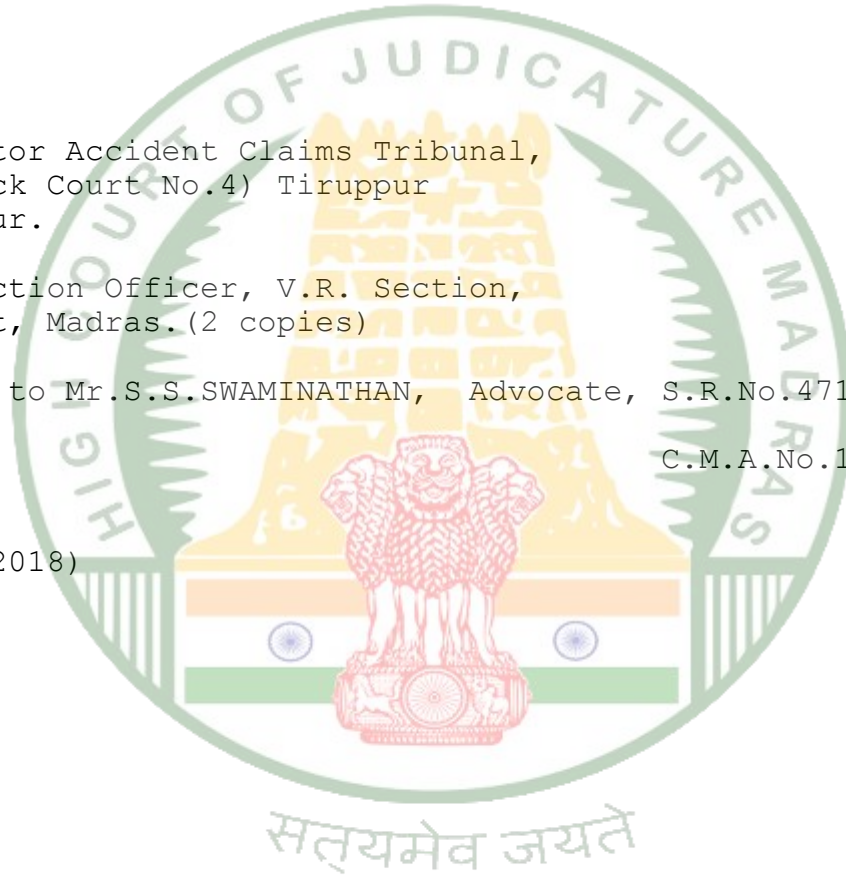
1. The Motor Accident Claims Tribunal,
(Fast Track Court No.4) Tiruppur
at Tiruppur.

2. The Section Officer, V.R. Section,
High Court, Madras. (2 copies)

+1cc to Mr.S.S.SWAMINATHAN, Advocate, S.R.No.47141

C.M.A.No.1081 of 2007

SS(CO)
TR(13/08/2018)



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