

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2018 of 2008

and

M.P.No.1 of 2008

The National Insurance Co.Ltd.,
Branch Office,
Dharmapuri.

... Appellant/2nd
Respondent

..Vs.

1.Thangavel ...1st Respondent/Petitioner
2.G.Rathnam ...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.10.2006 and made in M.A.C.T.O.P No. 1277 of 2003 on the file of the Dharmapuri District Motor Accident Claims Tribunal, at Krishnagiri (Chief Judicial Magistrate No.1 Court).

For Appellant : Mr.S.Vadivel
For Respondents 1 & 2 : No Appearance

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, Krishnagiri (Chief Judicial Magistrate No.1, Court) in its Judgment and decree dated 31.10.2006 in M.A.C.T.O.P No. 1277 of 2003.

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

2. The first respondent was a pillion rider in the vehicle Bajaj Boxer Motor Cycle bearing Registration No. TN 29 E 7679 which met with an accident due to the rash and negligent driving by the driver of the vehicle on 03.06.2003 at about 8.20 a.m. at Papparapatti bus stand, Dharmapuri District. The first respondent / claimant suffered injuries due to the said accident. The first respondent / claimant preferred a compensation claim before the Motor Accident Claims Tribunal, at Krishnagiri (Chief Judicial Magistrate No.1 Court) Dharmapuri District in M.A.C.T.O.P No. 1277 of 2003. The Motor Accident Claims Tribunal by its Judgment and Decree dated 31.10.2006 directed the appellant to pay the first respondent a sum of

Rs.2,40,110/- as compensation together with interest at the rate of 7.5% per annum from the date of claim till the date of realization.

3. Aggrieved by the award passed by the Motor Accident Claims Tribunal, the instant appeal has been filed by the Insurance Company.

4. Heard Mr. S.Vadivel learned counsel for the appellant. Though the appeal is of the year 2008, till date no notice has been served on the respondents. Since this court is going to confirm the award, no useful purpose will be served by keeping the appeal pending for non-service of notice on the respondents.

5. According to the learned counsel for the appellant, the Tribunal ought not to have applied the multiplier method for arriving at the future loss of income. The learned counsel for the appellant also contented that since no premium was paid for covering the pillion rider under the policy, the Tribunal has erroneously awarded the compensation to the first respondent who was a pillion rider.

6. This court has perused the Insurance Policy which was marked Ex.R1 before the Tribunal and the said policy is a package policy. R.W.1 who was the appellant's witness also admitted in his examination that the policy is a package policy. As seen from the terms and conditions of the package policy, pillion rider is also covered by the policy. Therefore the first contention of the learned counsel for the appellant that the first respondent being a pillion rider is not entitled for compensation has been rightly rejected by the tribunal.

7. Insofar as the second submission made by the learned counsel for the appellant that the quantum of compensation fixed by the tribunal is excessive and not in accordance with the settled principles of law, this court does not agree with the said contention, considering the nature of injuries suffered by the first respondent due to the accident. The first respondent has suffered fracture of both bones in the left leg. Even though the first respondent filed the disability certificate disclosing that he has suffered 40% disability, the Tribunal has taken into consideration only 20% disability and fixed the compensation accordingly.

8. The first respondent had made a claim of Rs.3,00,000/- before the tribunal, but the tribunal has awarded only a sum of Rs.2,40,110/-. The first respondent has filed documents including First Information Report, wound certificate, discharge summary, medical bills, transport bills, salary certificate and disability certificate in support of his claim before the

tribunal. Therefore, there is no merit in the contention of the learned counsel for the appellant that the award passed by the tribunal is excessive. This court does not find any merit in the appeal filed by the appellant.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar(CS-V)

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Sub-Assistant Registrar

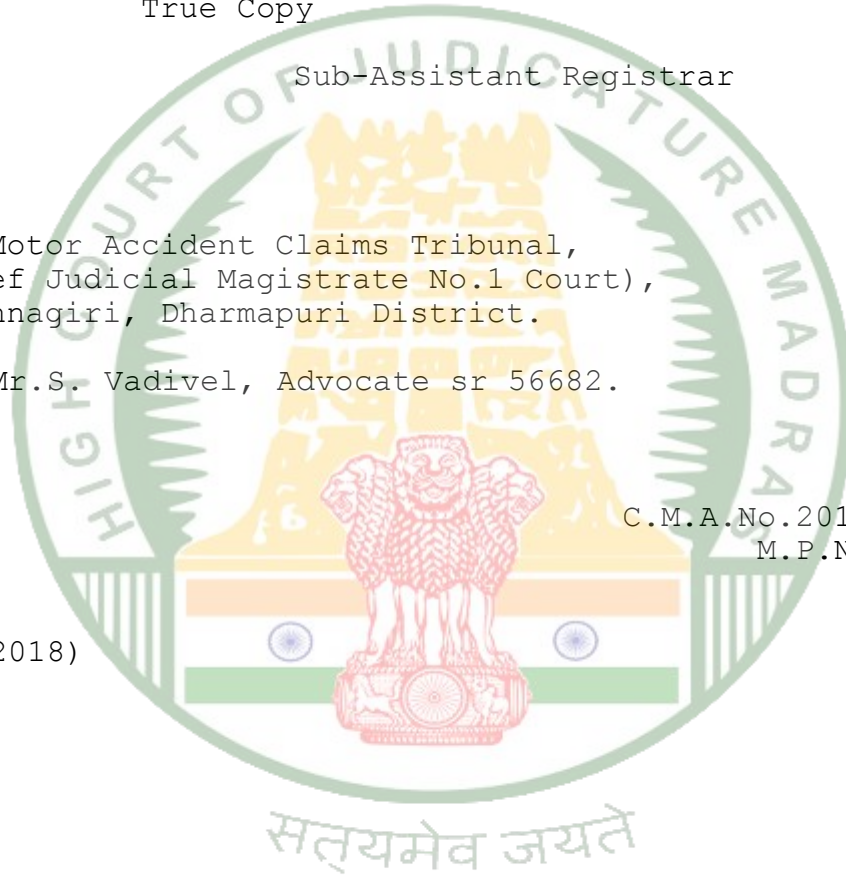
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To

The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate No.1 Court),
Krishnagiri, Dharmapuri District.

+1 CC to Mr.S. Vadivel, Advocate sr 56682.

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CA(CO)
SP(25/09/2018)



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