

N IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2018

CORAM :

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

C.M.A.No.528 of 2008
and M.P.No.1 of 2008

The National Insurance Co. Ltd.,
Cuddalore, N.T

... Appellant

Vs.

1.Minor Elakkiya
Rep. by her next friend and
mother Anja

2.Ramesh

... Respondents

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 24.04.2007 made in M.C.O.P.No.542 of 2005 on the file the Motor Accident Claims Tribunal (I Additional Sub Court), Cuddalore.

For Appellant : Mr.S.Vadivel

For R1 : No appearance

For R2 & R3 : Exparte

J U D G M E N T

This instant appeal has been filed by the Insurance Company, challenging the Judgment and Decree dated 24.04.2007 made in M.C.O.P.No.542 of 2005 on the file of the Motor Accident

Claims Tribunal (I Additional Sub Court), Cuddalore.

2. The Tribunal has awarded a compensation of Rs.50,000/- together with interest at the rate of 7.5% per annum from the date of the claim in favour of the first respondent represented by her mother and next friend, who was the claimant before the Tribunal.

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

The first respondent is a minor, who met with an accident, while she was standing in the road, opposite to Cuddalore OT Police Station, in Cuddalore to Chidambaram Main Road and she was hit by an auto bearing Registration No.TN 31B 1564. Before the Tribunal, the first respondent made a claim for Rs.3,00,000/- against the appellant. The Tribunal awarded a sum of Rs.50,000/- together with interest at the rate of 7.5.% per annum from the date of claim in favour of the first respondent. Aggrieved by the award dated 24.04.2007 passed the Tribunal, the instant appeal has been filed by the Insurance Company.

3. Heard Mr.S.Vadivel, learned counsel for the appellant. Despite service of notice, there is no appearance on the side of the first respondent.

4. According to the Appellant, the primary ground for challenge in this Appeal is that the claimant is a minor and the injury suffered by her is only a lacerated injury and the quantum of compensation awarded by the Tribunal is excessive. He drew the attention of this Court, to the Wound Certificate which is marked as Ex.P7 before the Tribunal which will clearly establish that the injuries suffered by the minor is an lacerated injury, amounting to simple injury. Therefore, according to him, the compensation of Rs.50,000/- awarded to the first respondent is exorbitant and not in accordance with law.

5. This Court after having considered the materials available on record and after examining the Award which is the subject matter of challenge and after hearing the submissions of the learned counsel for the appellant, observes the following :

a) It is an undisputed fact that the first respondent suffered injury on account of the accident caused by an auto rickshaw which is insured with the appellant.

b) It is also an undisputed that the first respondent took inpatient treatment in the hospital between 15.10.2004 and 21.10.2004.

c) The first respondent has also filed a disability certificate to establish that 20% disability has been suffered. No contra evidence has been produced by the appellant/Insurance Company before the Tribunal to disprove the 20% disability of the first respondent.

In view of the above observations recorded by this Court, this Court is of the considered view that the findings of the Tribunal are perfectly valid and it is in accordance with law.

In the result, there is no merit in the instant appeal. Accordingly, this Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

LPP

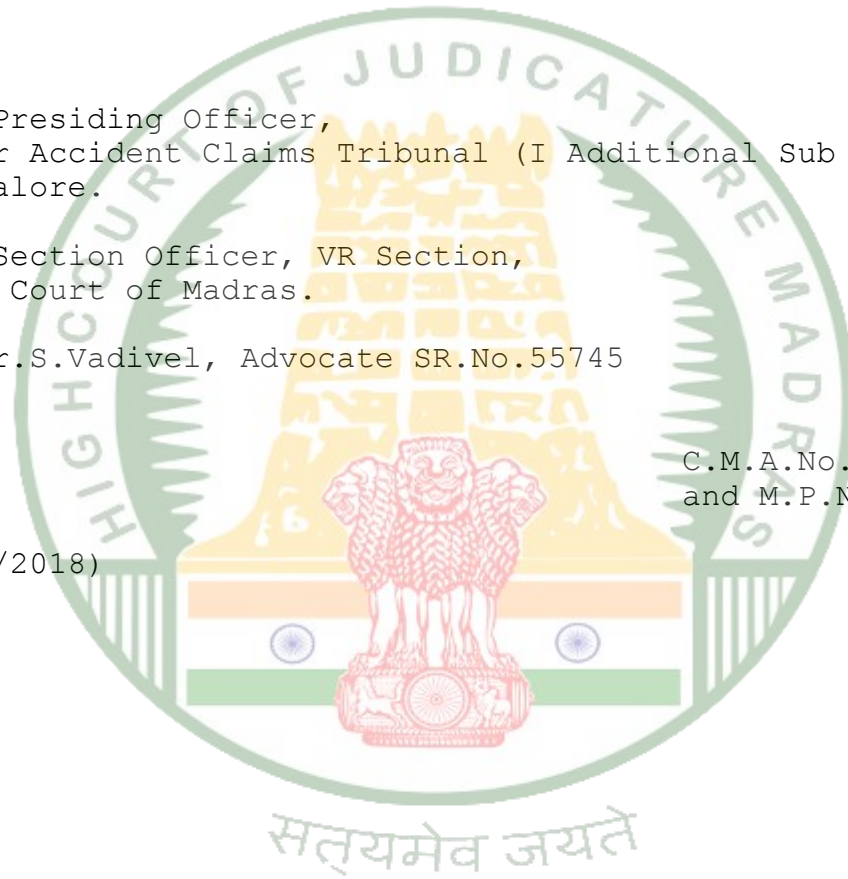
To

1. The Presiding Officer,
Motor Accident Claims Tribunal (I Additional Sub Court),
Cuddalore.
2. The Section Officer, VR Section,
High Court of Madras.

+1cc to Mr.S.Vadivel, Advocate SR.No.55745

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GMV (20/09/2018)



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