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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.09.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD) No.838 of 2018

and

C.M.P(MD)No.9327 of 2018

The New India Assurance Co. Ltd.,
Rep. by its Branch Manager,
480, Sekkalai Road,
Karaikudi,
Sivagangai District.

... Appellant / Respondent No.2
in Trial Court

vs.

1. Minor Ulaganathan
(Minor represented his father
and guardian Bose Pandian) ... Respondent /Petitioner and
1st Respondent in Trial Court

2.S.Muthukumar ... Respondent No.2/Respondent No.1

Prayer: The appeal filed under Section 173 of Motor Vehicle Act,
1988, against the award made in M.C.O.P.No.351 of 2002, dated
23.03.2010, on the file of the Motor Accident Claims Tribunal,
District Judge, Sivagangai.

For Appellant : Mr.Aaathimoola Pandian

JUDGMENT

Being aggrieved over the award passed by the Motor Accident
Claims Tribunal, District Judge, Sivagangai in M.C.O.P.No.351 of
2002, the appellant Insurance Company has filed the present
appeal.

2.The appellant Insurance Company is the second respondent in
M.C.O.P.No.351 of 2002, on the file of the Motor Accident Claims
Tribunal, District Judge, Sivagangai. The first respondent is the
claimant and the second respondent is the owner of the vehicle.
The first respondent filed the claim petition in M.C.O.P.No.351 of
2002, claiming a sum of Rs.1,00,000/- (Rupees One Lakh only) as
compensation for the injuries sustained by him in the accident
that occurred on 18.04.2002.

3.The appellant Insurance Company filed counter statement and
denied the accident as alleged by the claimant. The accident did
not occur due to rash and negligent driving by driver of the first
respondent. Hence, the appellant is not liable to pay any
compensation and prayed for dismissal of the application.



4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by driver of the first respondent. By the award, dated 23.03.2010, the Tribunal awarded a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) as compensation.

5.Aggrieved by the said award, the appellant has come out with the present appeal.

6.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

7.The contention of the learned counsel appearing for the appellant/Insurance Company is that the Tribunal failed to note that there is a delay of 2 days in lodging the FIR, wherein the registration number of the vehicle involved in the vehicle is not mentioned and the TATA 407 bearing registration No.TN-65 A 1220 was not plying in the place of occurrence on the date of accident and the Tribunal has erred in rejecting the independent evidences of R.W.2 and R.W.3 and Ex.R.1 Trip sheet, are without merits.

8.As far as quantum of compensation is concerned the Tribunal taking into consideration the evidence of P.W.4 doctor and Exhibits with regard to nature of percentage of disability, medical bills produced by the first respondent awarded a just compensation. The compensation awarded in respect of various heads are not excessive. It is only based on the documents produced by respondent.

9.In the result, this Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit the entire award amount to the credit of M.C.O.P.No.351 of 2002, on the file of the Motor Accidents Claims Tribunal, District Court, Sivagangai, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal shall deposit the said amount in any one of the Nationalized bank in a Fixed Deposit initially for a period of three years and renewable thereafter, till the minor attains majority. The father of the claimant is permitted to withdraw the accrued interest once in three months directly from the bank. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(writs)



To

The Motor Accident Claims Tribunal,
District Court, Sivagangai.

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Copy to:

The Record Keeper,
V.R.Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

Am

MK/TE/SV/SAR 4/11.02.2019/3P/4C

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