



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.08.2018

CORAM:
THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CMA(MD).No.1983 of 2013 and
C.M.P(MD).No. 2459 of 2018

National Insurance Company Limited,
rep. through its Divisional Manager,
No.3 North Veli Street,
Madurai - 625 001

: Appellant / Respondent No.2

Vs.

1.T.R. Kannan
2.V. Ramesh

: Respondent No.I/Petitioner
: Respondent No.II/Respondent No.I

Prayer: The Civil Miscellaneous Appeal is is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP.No.783 of 2001, dated 26.08.2010 by the Motor Accidents Claims Tribunal, II Additional Sub Court, Madurai.

For Appellant : Mr. D. Sivaraman
For R1 : Mr. A. Arumugam for M/s.Ajmal Associates
For R2 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree made in MCOP.No.783 of 2001, dated 26.08.2010 on the file of the Motor Accidents Claims Tribunal, II Additional Sub Court, Madurai.

2. The appellant is the second respondent in MCOP.No.783 of 2001, on the file of the Motor Accidents Claims Tribunal, II Additional Sub Court, Madurai. Aggrieved against the Award passed by the Tribunal, directing the appellant to pay a sum of Rs.2,00,627/- as compensation to the first respondent, the appellant has filed the present appeal.

3. According to the appellant / Insurance Company, the Tribunal framed issues with regard to negligence on the part of the driver of the second respondent, without deciding the said issue has directed the appellant to pay the compensation amount.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.



5. From the Award of the Tribunal it is seen that the Tribunal has not discussed the evidence on record with regard to the negligence on the part of the driver of the second respondent herein, except stating that the appellant is liable to pay compensation for the accident caused by the second respondent as a insurer. The Tribunal did not decide the point for consideration that whether the accident occurred due to the negligence on the part of the driver of the second respondent herein. In view of the same, the Tribunal is not correct in directing the appellant to pay the compensation.

6. For the above reasons, the Award of the Tribunal passed in MCOP.No.783 of 2001, dated 26.08.2010 on the file of the Motor Accidents Claims Tribunal, II Additional Sub Court, Madurai is hereby set aside and the matter is remanded back to the Tribunal for fresh consideration and to pass appropriate orders on merits.

7. With the above direction, this Civil Miscellaneous Appeal is disposed of. It is open to the parties let in further evidence. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar (CS-IV)

To
The II Additional Sub Judge,
Motor Accidents Claims Tribunal,
(II Additional Sub Court), Madurai.

Copy to: The Section Officer,
E.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.AJMAL ASSOCIATES, Advocate, SR.No. 79608
+1cc to Mr.D.SIVARAMAN, Advocate, SR.No. 79434

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C.M.P(MD).No. 2459 of 2018
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TRP
KK/RP/SAR-4/25.10.2018/2P-5C