

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.01.2019
CORAM
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
C.M.A.NO.2086 OF 2006

The Branch Manager
National Insurance Company Ltd.
Anuradha Complex
III Floor, No.333, Bangalore Road
Krishnagiri 635 001

...Appellant/2nd Respondent

Vs.

1. Periyannan 1st Respondent/Petitioner

2. P.C.Murugesan
...Respondent II /1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree dated 20.02.2006 and made in M.C.O.P. No.1202 of 2004 on the file of the Dharmapuri District Motor Accident Claims Tribunal at Krishnagiri (Chief Judicial Magistrate No.I, Court).

For Appellant : Mr.S.Vadivel

For Respondents : No appearance.

JUDGMENT

The appellant National Insurance Company Limited, Krishnagiri, is the second respondent in M.C.O.P. No.1202 of 2004 on the file of the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Dharmapuri at Krishnagiri.

2. The first respondent/claimant filed the claim petition under Section 166 of Motor Vehicles Act, seeking compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident that took place on 24.10.2004 when he was travelling in a Tempo Van bearing registration No. TN 39 Q 7552 belonging to the second respondent and insured with the present appellant. According to him, at about 5.00 p.m., when the van was nearing Rayakottai Junction at Krishnagiri-Hosur bypass road, the driver of the tempo van drove the vehicle rashly and negligently and hit a wall in an overhead bridge, as a result of which, the van toppled and the first respondent/claimant sustained injuries all over his body. The further contention of

the first respondent/ claimant is that he was running a mechanic shop earning Rs.15,000/- on the date of accident and that he could not do any work as before on account of accident. The specific contention of the first respondent/claimant is that the rash and negligent driving of the driver of the Tempo Van bearing registration No. TN 39 Q 7552 belonging to the second respondent was the cause of the accident and that since the said van was insured with the present appellant, both of them are jointly and severally liable to pay compensation of Rs.2,00,000/- to him.

3. The second respondent as well as the present appellant contested the claim petition before the tribunal. The learned Chief Judicial Magistrate, Dharmapuri at Krishnagiri, after analysing the records, awarded a compensation of Rs.1,33,000/- to the claimant together with interest at the rate of 9% per annum from the date of claim petition.

4. Aggrieved over the orders passed by the tribunal, National Insurance Company Limited, Krishnagiri, has filed the present appeal under Section 173 of the Motor Vehicles Act 1988.

5.Mr.S.Vadivel, learned counsel appearing for the appellant would contend that though no FIR was registered in the instant case, the tribunal has fixed the negligence on the driver of the tempo van bearing registration No. TN 39 Q 7552 and directed the Insurance Company / appellant herein, to pay compensation of Rs.1,33,000/- and therefore, the orders passed by the tribunal has got to be set aside.

6.The evidence on record shows that the first respondent/claimant had immediately sent a communication to the Sub Inspector of Police, Krishnagiri Taluk Police Station on 28.10.2004 requesting him to register F.I.R in respect of the accident that took place on 24.10.2004. A copy of the said letter has been marked as Ex.P3. The acknowledgement card Ex.P4 shows that the said letter was actually received by the station house officer, Krishnagiri Taluk Police Station. Since no FIR was registered, the first respondent/claimant sent another communication on 03.11.2004 to the Inspector of Police, Krishnagiri Taluk Police Station, requesting him to register FIR and the said letter (Ex.P1) was received by the station house officer as evidenced by the postal acknowledge card Ex.P2. Despite the same, the Inspector of Police did not register any FIR. Though the second respondent denied the factum of accident, did not adduce any evidence to substantiate their contention. On the contrary, the evidence of PW1 is clear on this aspect. Learned Chief Judicial Magistrate, Dharmapuri District Motor Accident Claims Tribunal at Krishnagiri, has

analysed the evidence adduced on the side of the first respondent/claimant and held that the driver of the second respondent was responsible for the accident. The observations made by the tribunal are perfectly in order and therefore, I do not see any reason to interfere with the same.

7.As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel appearing for the appellant. A perusal of the records also shows that the tribunal has awarded a just compensation of Rs.1,33,000/-. In fact, the first respondent/claimant did not file any appeal or cross objection seeking for enhancement of compensation.

8. In the result,

(i) The appeal filed by the National Insurance company Ltd., Krishnagir, is dismissed. No costs.

(ii) The award passed by the tribunal is upheld.

(iii) It is brought to the notice of this Court that the appellant/ Insurance company has already deposited 50% of the award amount and the same was withdrawn by the first respondent/ claimant and hence, the Insurance company is directed to pay the balance amount together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the appellant, the claimant is entitled to withdraw the same, after following due process of law.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bga

To,

The Chief Judicial Magistrate No-I,
Motor Accident Claims Tribunal,Dharmapuri at Krishnagiri.

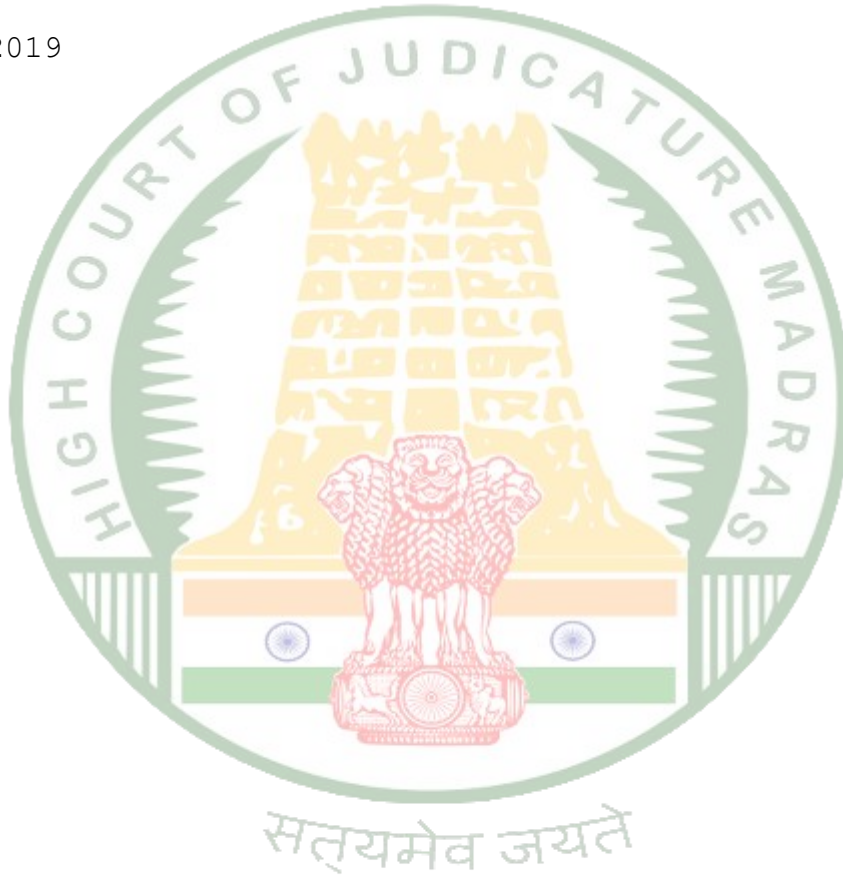
Copy to:

The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.S.Vadivel, Advocate sr.5449

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