

IN THE HIGH COURT OF JUDICATURE AT MADRAS

PRONOUNCED ON: 15.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.112 of 2013

&

M.P.No.1 & 2 of 2013

The United India Insurance Co. Ltd.,
Regional Office, Legal Department,
'Silingi Buildings'
New No.134, Old No.40/42,
Greens Road, Chennai - 600 006.

... Appellant/2nd Respondent

Vs

1.P.Bharath
represented by his father C.Panneerselvam

2.M.N.Karmegam
(R-2 set ex parte in Lower Court)

... Respondents/petitioner/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed against the Judgment and Decree dated 28.03.2012 made in MCOP.No.794 of 2009 on the file of the Motor Accident Claims Tribunal (Additional District Judge) (Fast Track Court No.II) at Chennai.

For Appellant : Mr.R. Ravichandran

For Respondent 1: No appearance

(R2-ex parte)

J U D G M E N T

The instant appeal has been filed by the Insurance company challenging the order dated 28.03.2012 passed by the learned Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.II at Chennai.

Brief facts of the case are as follows:

2. On 26.03.2007 at about 23.15 hours while the first respondent was walking in Dr.Ambedkar Road from North to South

in the left side of the Road, an Autorickshaw bearing registration No.TN02-P-4866 owned by the second respondent came in the rash and negligent manner from behind and hit the first respondent resulting in the first respondent sustaining multiple injuries. The first respondent/injured preferred a compensation claim before the Motor Accident Claims Tribunal seeking a compensation of Rs.6,00,000/-.

3. The first respondent examined himself as PW1 and examined one doctor as PW2 and copy of FIR, Rough Sketch, Discharge Summary by Govt. General Hospital, O.P. Treatment book by Govt. G.H., Medical Prescriptions, Treatment X'ray were marked as Ex.P1 to Ex.P8 respectively. RW1 and RW2 were examined and copy of charge sheet, authorisation letter and copy of policy were marked as Ex.R1 to Ex.R3 on the side of the Appellant before the Tribunal.

4. After examining various aspects the Tribunal passed an Award dated 28.03.2012 by directing the Appellant insurance company to pay the first respondent a sum of Rs.1,25,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and set the second respondent ex parte.

5. Aggrieved by the Award dated 28.03.2012, the appellant insurance company preferred this appeal questioning the liability.

6. Heard learned counsel for the Appellant. There is no representation on the side of the first respondent. The second respondent was remained ex parte both before the Tribunal as well as this Court.

7. Learned counsel for the Appellant submitted that the driver who drove the vehicle did not have valid driving licence at the time of accident and he was also pleaded guilty and paid the fine before the learned VI Metropolitan Magistrate, Egmore, Chennai. According to the learned counsel for the Appellant, the Tribunal has failed to permit the Appellant to recover the award amount from the owner of the vehicle, second respondent.

8. This Court has perused and examined the impugned Award. The driver of the vehicle was pleaded guilty and paid the fine before the learned VI Metropolitan Magistrate, Egmore, Chennai. The driver pleaded guilty alone is not enough for this Court to come to the conclusion that the driver drove the vehicle without valid driving license. In order to know whether the driver of the insured vehicle who drove the vehicle is having valid driving license at the time of accident, either he should have impleaded as a party before the Tribunal or he should have examined before the Tribunal. But, neither he was impleaded as a party nor he was examined before the Tribunal.

9. Therefore, this Court does not find any fault in the findings of the Tribunal and is not inclined to interfere with the judgment of the Tribunal. Accordingly, the Civil

Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

To

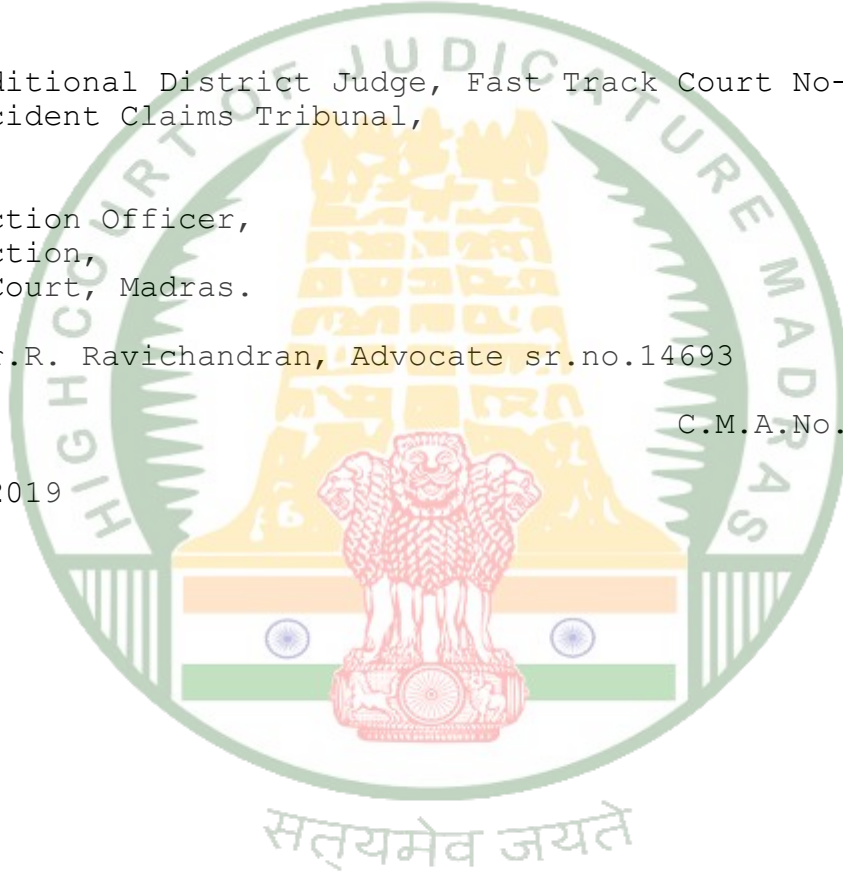
1. The Additional District Judge, Fast Track Court No-II,
Motor Accident Claims Tribunal,
Chennai.

2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.R. Ravichandran, Advocate sr.no.14693

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