

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.979 of 2006 and
CMP No.3902 of 2006

The Oriental Insurance Company Ltd
Cuddalore

Appellant / 2nd Respondent

Vs

1. R.Gunasekaran

2. Dharmaraj

Respondents / Petitioner &
1st Respondent

Prayer: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 19.08.2005 made in MCOP No.551 of 2003 on the file of the Motor Accidents Claims Tribunal/Additional District Court, (Fast Track Court No.II), Cuddalore.

For Appellant : Mr.M.Rajasekhar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the appellant / Insurance Company against the award passed in MCOP No. 551 of 2003 on the file of the Motor Accidents Claims Tribunal/Additional District Court, (Fast Track Court No.II), Cuddalore.

2.The case in brief is as follows:-

On 27.09.2000 at about 9.45 am, when the first respondent / claimant was travelling in his bullock cart on the Pennadam-Tittagudi Main Road, the Mahindra Maxi Cab vehicle bearing Reg.No.TN 51 Y 1414, belonging to the second respondent and insured with the appellant Insurance Company, came in a rash and negligent manner and dashed against the bullock cart. Due to the impact, the bullock cart got damaged and further the claimant and his bullocks sustained injuries. Hence, the claimant/ 1st respondent filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,20,270/- with interest at the rate of 7.5% per annum from the date of petition.

3. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4. The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in fixing the negligence on the part of the driver of the Mahindra van. It is further submitted that the compensation awarded by the Tribunal is excessive.

5. Heard the learned counsel for the appellant and perused the materials and evidence available on record, carefully and meticulously.

6. Though this appeal was admitted way back in the year 2006, the appellant has not taken proper steps to serve notice on the other side. However, due to paucity of time, this Court is inclined to dispose of this appeal, on merits.

7. The first respondent / claimant has been examined as P.W.1 before the Tribunal. He deposed that the accident had occurred only due to the rash and negligent driving of the driver of the Mahindra van. It is also seen that based on the complaint given by the younger brother of the claimant, an First Information Report has been filed under Sections 279 and 338 of IPC by Pennadam Police Station, against the driver of the van. Considering the deposition of P.W.1 corroborated with the First Information Report, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van, which factual finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.10,000/- towards disability, Rs.1,98,000/- towards loss of income, Rs.1,270/- towards medical expenses, Rs.5,000/- towards pain, suffering and mental agony and Rs.6,000/- towards injuries caused to the bullock. The Tribunal has relied upon the exhibits, evidence of witnesses, medical bills, treatment records, taken note of II Schedule of the Motor Vehicles Act and all other aspects in a proper perspective and has awarded the above amounts under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards these heads are reasonable and justifiable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/ Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent/ claimant is

permitted to withdraw the same on making proper application before the Tribunal.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

vrn
To

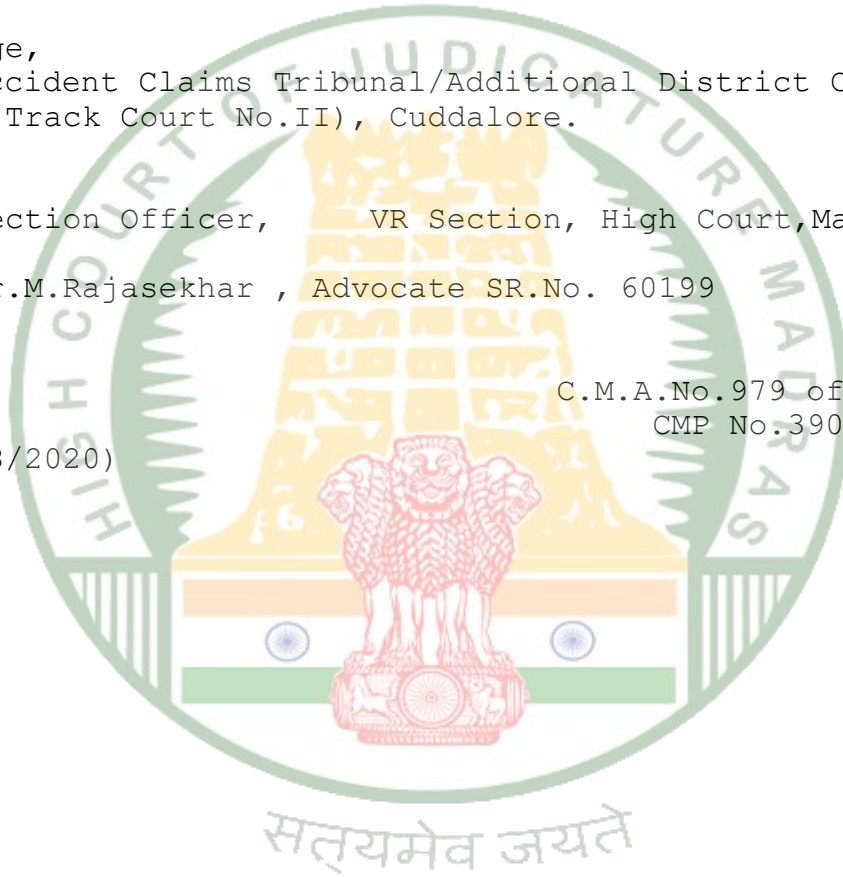
1.The Judge,
Motor Accident Claims Tribunal/Additional District Court
(Fast Track Court No.II), Cuddalore.

Copy to:
The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.M.Rajasekhar , Advocate SR.No. 60199

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A.SK(03/08/2020)



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