

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1130 of 2009 and

M.P.No.1 of 2009

United India Insurance Company Limited.  
Third Party Claim Cell,  
38, Anna Salai, Chennai - 2. .... Appellant/2nd Respondent

Versus

1. Elumalai ....Respondent/Petitioner

2. M.G.Dilli .... Respondents/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 02.04.2008 made in O.P.No.90 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri.

|               |                          |
|---------------|--------------------------|
| For Appellant | :Mr.J. Michael Vishvasam |
| R1            | :No Appearance           |
| R2            | :Exparte                 |

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated 02.04.2008 made in O.P.No.90 of 2005 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri.

2. On 10.06.2003 at about 16.30 hours, while the first respondent/claimant was travelling in a Jeep bearing Registration No: TNG-2389 near Amaramedu junction Road, the driver of the jeep suddenly lost his control because of some buffaloes suddenly crossed the road and he applied sudden brake, due to which, the claimant sustained grievous injuries. The accident occurred only due to the rash and negligent act of the driver. Hence, the first respondent herein filed M.C.O.P.No.90 of 2005, on the file of the Motor Accidents Claims Tribunal,

( Subordinate Judge) at Ponneri seeking compensation for a sum of Rs.4,53,900/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.57,500/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents, the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal has applied its mind properly and granted the award with the correct head which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree dated 02.04.2008 passed by the Motor Accident Claims Tribunal (Subordinate Judge) at Ponneri is hereby confirmed.

(b) the appellant/Insurance Company is directed to deposit the amount as awarded by the Tribunal, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit the first respondent herein is permitted to withdraw the award amount, by way of filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

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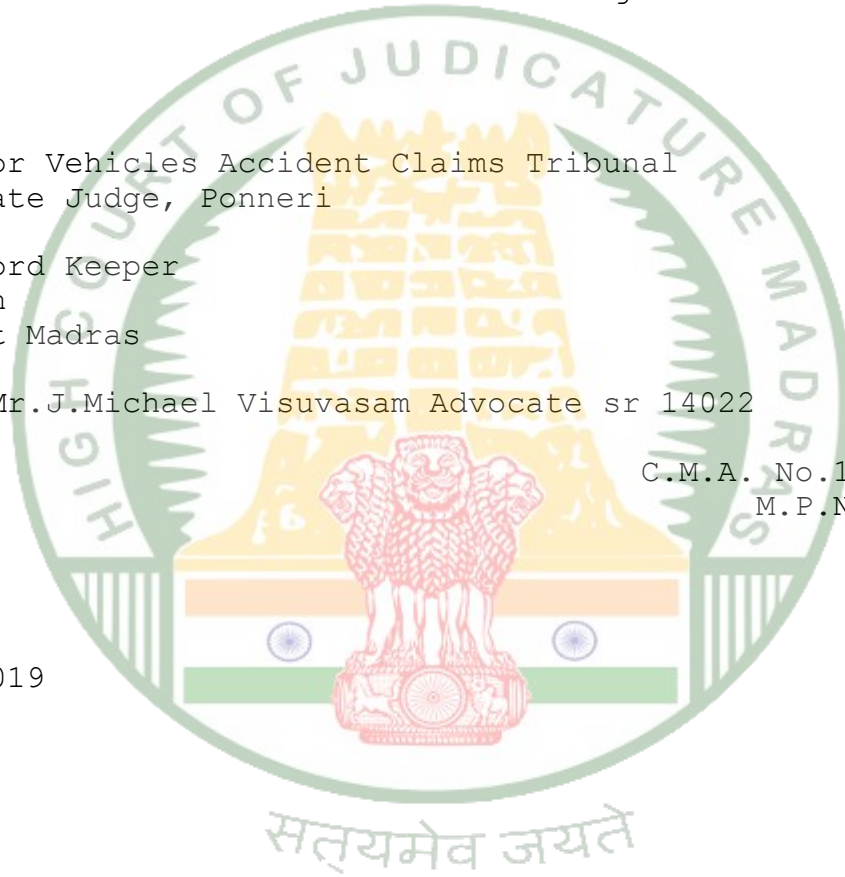
1.The Motor Vehicles Accident Claims Tribunal  
Sub Ordinate Judge, Ponneri

2.The Record Keeper  
VR Section  
High Court Madras

+1 cc to Mr.J.Michael Visuvasam Advocate sr 14022

C.M.A. No.1130 of 2009  
M.P.No.1 of 2009

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