

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1294 of 2009

The National Insurance Company Limited
Represented by its Divisional Manager,
Divisional Office,
Tirupur.

... Appellant

Versus

1. Selvaraj
2. P.Ponrasu

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.386 of 2006 dated 07.08.2008, on the file of the Motor Accidents Claims Tribunal /Additional District and Sessions Judge, Fast Track Court No.4, Tirupur.

For Appellant : Mrs.N.B.Surekha

For Respondents: No appearance

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in MCOP No.386 of 2006 dated 07.08.2008, the appellant / Insurance Company preferred this Civil Miscellaneous Appeal.

2. The facts of the case are that on 06.09.2003 at about 4 p.m, while the 1st respondent/claimant was traveling in a Minidoor Auto bearing Registration No.TN-41-X-3641, towards Pethappampatti to Ammapatti road near lingamanickenoudur, the driver drove the auto in a rash and negligent manner in which the auto capsized. Out of the said accident, the 1st respondent sustained grievous injuries. Therefore, he filed a petition in M.C.O.P.No.386 of 2006 before the Motor Accidents Claims Tribunal /Additional District and Sessions Judge, Fast Track Court No.4, Tirupur, claiming a sum of Rs.5,00,000/- towards

compensation. The Claims Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.4,09,375/- payable with interest at the rate of 7.5% per annum from the date of petition to date of award.

3. Challenging the award of compensation as excessive and disproportionate, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Despite notice served to respondents, their names also printed in the cause list, there is no representation on behalf of second respondent. Since R1 died, the notice was returned.

5. Heard Mrs.N.B.Surekha, learned counsel for the appellant and perused the materials available on record.

6. The appellant/Insurance Company challenging the award on the ground of liability. The first respondent/claimant was not an unauthorized passenger whereas he was traveling as a load man in the mini door auto at the time of accident. Therefore, since the auto is insured with the appellant Insurance company, the appellant is liable to pay the compensation.

7. In view of the above, considering the age, occupation and nature of injury sustained by the claimant as well as the medical evidence produced by him, this Court finds that the Tribunal has awarded just and reasonable compensation amount of Rs.4,09,375/-, and no interference is called for in this appeal. Hence, the appeal is liable to be dismissed.

8. In the result,

a) This Civil Miscellaneous Appeal is dismissed on merits by confirming the award passed by the Tribunal in M.C.O.P.No.386 of 2006 dated 07.08.2008, on the file of the Motor Accidents Claims Tribunal /Additional District and Sessions Judge, Fast Track Court No.4, Tirupur.

b) The appellant/Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest at 7.5% per annum, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of copy of this Judgment.

c) On such deposit, since the first respondent died, the legal heirs of the first respondent/claimant is permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn, on filing appropriate application before the Tribunal.

Consequently, connected Miscellaneous Petition is closed.
No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vum

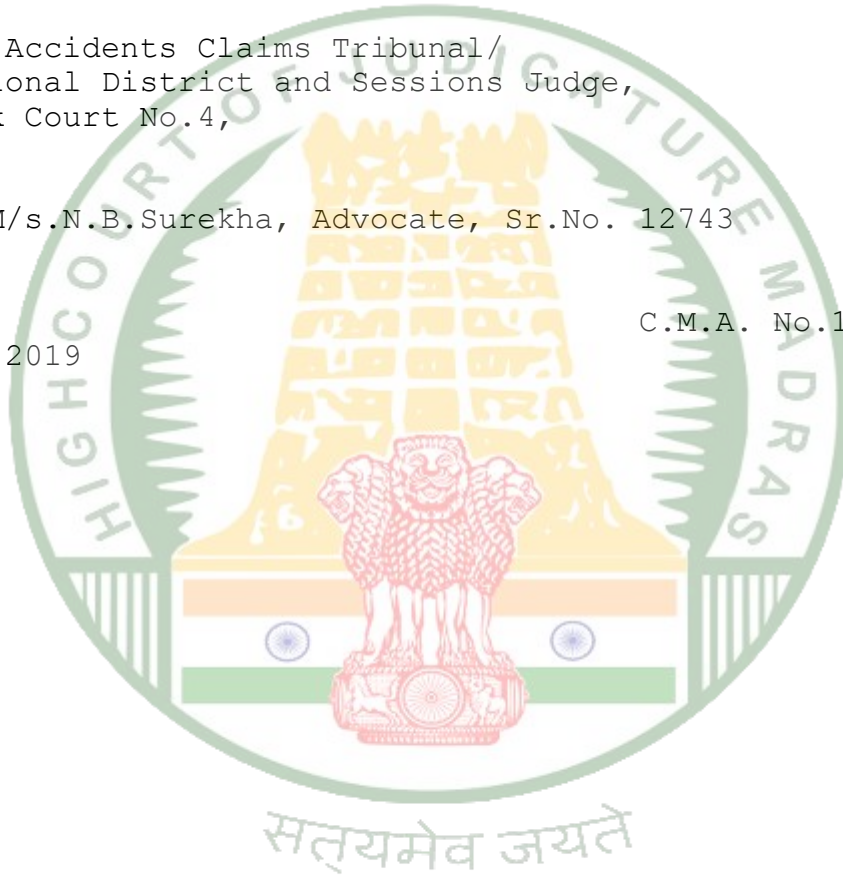
To.

The Motor Accidents Claims Tribunal/
The Additional District and Sessions Judge,
Fast Track Court No.4,
Tirupur.

+1 cc to M/s.N.B.Surekha, Advocate, Sr.No. 12743

CSL/23.07.2019

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