

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4169 of 2008

Royal Sundaram Alliance Insurance Co. Ltd.,
47, Whites Road,
Chennai - 600 014.Appellant/2nd Respondent

Vs

1.Kaveriammal1st Respondent/Petitioner
2.R.Chinnamuthu

(2nd Respondent ex-parte before Lower Court.
Hence, notice dispensed with)

....2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 03.03.2008 made in M.C.O.P.No.260 of 2006, on the file of Motor Accidents Claims Tribunal, Additional District Court, Dharmapuri.

For Appellant : Mr.N.Vijayaraghavan
For R1 : No Appearance
For R2 : Ex-parte

J U D G M E N T

Heard the learned counsel for the appellant insurance company and perused the materials available on record. Despite the service of notice and the name of the first respondent/claimant having been printed in the cause list, there is no representation on her behalf.

2.This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 03.03.2008 passed by the Motor Accidents Claims Tribunal, Additional District Court, Dharmapuri, in M.C.O.P.No.260 of 2006, whereby, the Tribunal has awarded a total compensation of Rs.1,05,600/- as against the claim of Rs.5,00,000/- made by the first respondent/claimant for

the injuries sustained by her in a motor vehicle accident that had occurred on 15.09.2004.

3.The learned counsel for the appellant insurance company has not disputed the quantum of compensation awarded by the Tribunal. However, he submitted that without considering the fact that the rider of the motorcycle did not possess valid driving licence at the time of accident, the Tribunal erred in directing the appellant insurance company to pay compensation to the first respondent/claimant and thereafter, recover the same from the owner of the vehicle. Hence, the learned counsel prayed to exonerate the appellant insurance company from paying the compensation.

4.P.W.1/first respondent/claimant deposed in her evidence that on the date of accident i.e., on 15.09.2004, while she was walking on the road, the rider of the motorcycle bearing Registration No.TN29-F-9194 came in a rash and negligent manner and dashed against her. Ex.P1 First Information Report was registered against the rider of the motorcycle. On the side of the appellant insurance company, R.W.1/official attached to the Regional Transport Office, Dharmapuri was examined, which would go to prove that the rider of the motorcycle did not possess driving licence at the time of accident. To rebut the same, no document was filed on the side of the first respondent/claimant. However, the risk of the motorcycle was covered by Ex.R1 insurance policy. Hence, the Tribunal, based on the materials and evidence adduced by the parties, has rightly come to the conclusion that the accident had occurred due to the rash and negligent act on the part of the rider of the motorcycle and accordingly, directed the appellant insurance company to pay the compensation to the first respondent/claimant initially and thereafter, recover the same from the owner of the vehicle, which finding this Court is not inclined to interfere.

5.Since the appellant insurance company has not disputed the quantum of compensation awarded by the Tribunal, there is no requirement to go into the said aspect and the award passed by the Tribunal is hereby confirmed as such.

6.In fine, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment and thereafter, recover the same from the owner of the vehicle in accordance with law. On such deposit being made, the Tribunal shall transfer the amount lying in the deposit to the Savings Bank Account of the

first respondent/ claimant /injured through RTGS, within one week thereafter.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gbi/rk

To

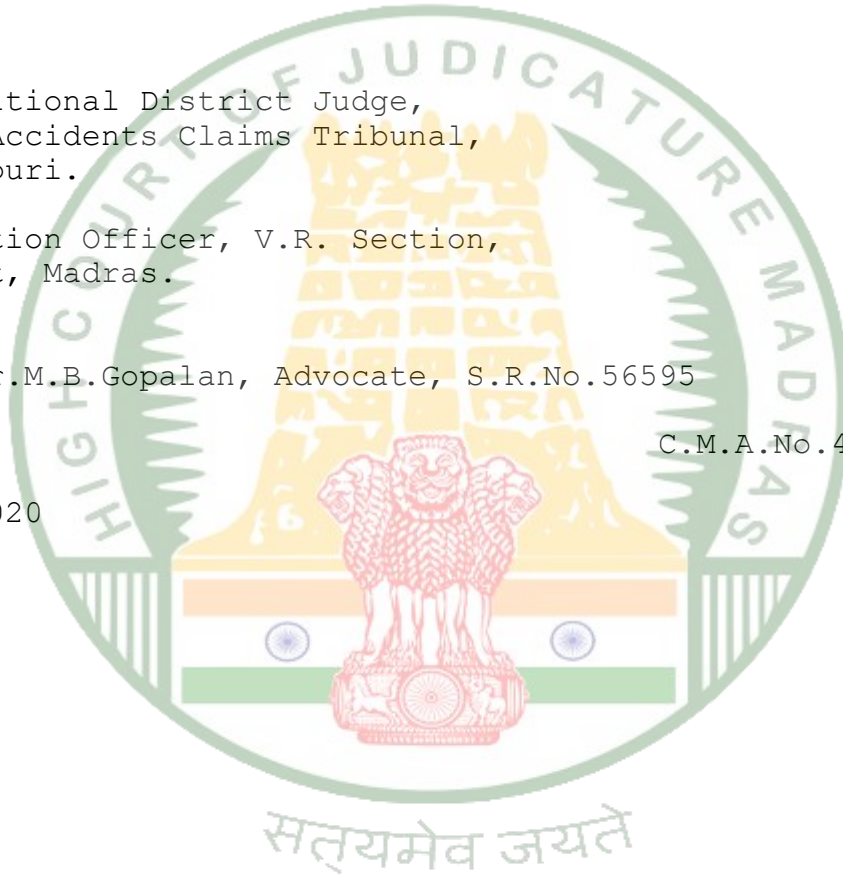
1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

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

+lcc to Mr.M.B.Gopalan, Advocate, S.R.No.56595

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