

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 11.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.2101 of 2009
and M.P.No.1 of 2009

The New India Assurance Co.Ltd.,
Madurai.

... Appellant/3rd Respondent

Versus

1. Subramaniyan ...1st Respondent/Petitioner

2. Paneeselvam

3. Thiruvengadam ...2nd & 3rd Respondents/1st & 2nd Respondents

(Respondents 2 and 3 are exparte
before Lower court, hence notice
may be dispensed with)

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.150 of 2006 dated 30.09.2008, on the file of the Motor Accidents Claims Tribunal / Fast Track Court, Kallakurichi.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mr.R.Nalliyappan (for R1)

JUDGMENT

This Civil Miscellaneous Appeal is filed against the fair and Decretal order made in M.C.O.P.No.150 of 2006 dated 30.09.2008, the appellant preferred this Civil Miscellaneous Appeal.

2. The facts of the case are that on 30.09.2004 at about 1.00 p.m, when the first respondent was traveling in a vehicle belongs to the appellant bearing Registration No.TN 59 Q 8292 from Kongarayapalayam Road to Kudiyanallur main road, near Patti muniyappan koilhundile in Kongarayapalayam, the two wheeler bearing Registration No.TN 32 Z 6063 was driven by the second respondent in a rash and negligent manner and hit against the 1st respondent. As a result, the first respondent sustained grievous injuries all over the body. Hence, the first

respondent/injured filed a petition in M.C.O.P.No.150 of 2006 before the Motor Accidents Claims Tribunal / Fast Track Court, Kallakurichi, claiming a sum of Rs.4,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, awarded a sum of Rs.55,000/- payable with interest at the rate of 7.5 % per annum from the date of filing petition to till the date of decree.

3. Challenging the liability fixed on the part of the appellant Insurance Company, the appellant/Insurance Company is before this Court by way of filing this Civil Miscellaneous Appeal.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. On hearing both sides, it is seen that the appellant / Insurance Company has filed this present Civil Miscellaneous Appeal Challenging liability fixed on the part of the Insurance Company by the Tribunal, Since the driver and the complainant alone are liable for the accident. But, there is no proper evidence or documents adduced by the appellant / Insurance company to that effect. Therefore, there is no necessity to interfere with the order passed by the Tribunal, as the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court. Hence, the appeal is liable to be dismissed.

6. 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.150 of 2006 dated 30.09.2008, on the file of the Motor Accidents Claims Tribunal / Fast Track Court, Kallakurichi.

b) Since it is reported by the learned counsel for appellant that the entire award amount as determined by the Tribunal has already been deposited, the first respondent/claimant is permitted to withdraw the said award amount 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

//True Copy//

Sub Assistant Registrar

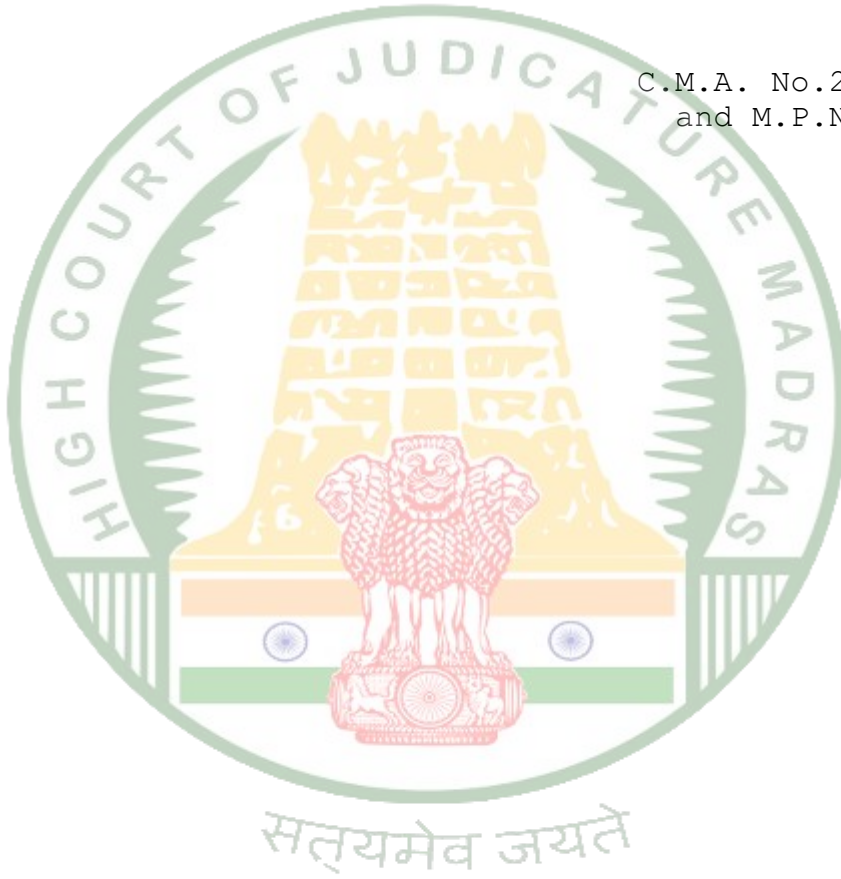
To

The Motor Accidents Claims Tribunal/
Fast Track Court,
Kallakurichi.

+1 cc to M/s.R.Nalliyappan, Advocate Sr.No. 12724

AKM/19.09.19/3P-3C /

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