

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.908 of 2008
and M.P.No.1 of 2008

The Manager
United India Insurance Co.Ltd
Branch Office No.3
137D, Cherry Road
Salem

: Appellant / 2nd Respondent

Vs

1. E.Basha : 1st Respondent/Petitioner

2.A.Sumathi : 2nd Respondent/1st Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 28.04.2006 made in M.C.O.P.No.1230 of 2003 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Krishnagiri.

For Appellant : Ms. I.Malar
For Respondents : R1 - Mr.V.Kumaravel
R2 - Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, as against the judgment and decree dated 28.04.2006 passed by the Tribunal in MCOP.No.1230 of 2003.

2.The case in brief, is as follows:

On 13.08.2000, at about 21.00 hours, while the lorry bearing Regn.No.TNQ 767 was nearing Thimmapuram School, a bus bearing Regn.No. KA17 9199 belonging to the 2nd respondent herein and insured with the appellant herein, came in a rash and negligent manner and dashed against the lorry, due to which, the cabin of the lorry was completely damaged, besides causing damage to bumper, front glass, grill, sky wheel and front portion of the same. Stating that the accident had happened only due to the rash and negligent driving of the driver of the bus, the first

respondent/claimant filed a claim petition claiming a compensation of Rs.2,00,000/- towards damage caused to the lorry. After an elaborate trial, the Tribunal has awarded a total compensation of Rs.60,000/- with interest at the rate of 9% per annum from the date of petition. Aggrieved over the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant has disputed only the quantum of compensation awarded by the Tribunal. According to her, in the absence of any documentary proof, the Tribunal has erred in awarding a huge compensation of Rs.60,000/- towards damage caused to the vehicle, due to the accident and hence, the same has to be reduced substantially.

4.The learned counsel appearing for the 1st respondent/claimant submitted that the Tribunal, after evaluating the oral and documentary evidence adduced by the parties, has awarded the just compensation and hence, the same warrants no interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the documents available on record.

6.Since the finding of the Tribunal on negligence that the accident had occurred, only due to the rash and negligent act on the part of the driver of the bus, is unassailable, the same is hereby confirmed. In view of the same, the liability of the appellant insurance company to pay compensation is also confirmed.

7.As regards the quantum of compensation, PW 1/claimant has deposed in his evidence that the entire cabin of the lorry and bumper, front glass, grill, sky wheel and front portion of the lorry were fully damaged. To substantiate the same, he marked Ex.P.2- Motor Vehicle Inspector's Report and Ex.P.4-Mechanical Bill. On considering the same, the Tribunal has awarded Rs.25,000/- towards damage caused to the lorry, Rs.10,000/- towards labour charges, Rs.25,000/- towards loss of income, totalling to Rs.60,000/-, which, in the opinion of this Court, is fair, just and reasonable and hence, the same need not be interfered with.

8.In the result, affirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal

is directed to transfer the amount lying in the deposit to the Savings Bank Account of the first respondent/claimant through RTGS within one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vrn/rk

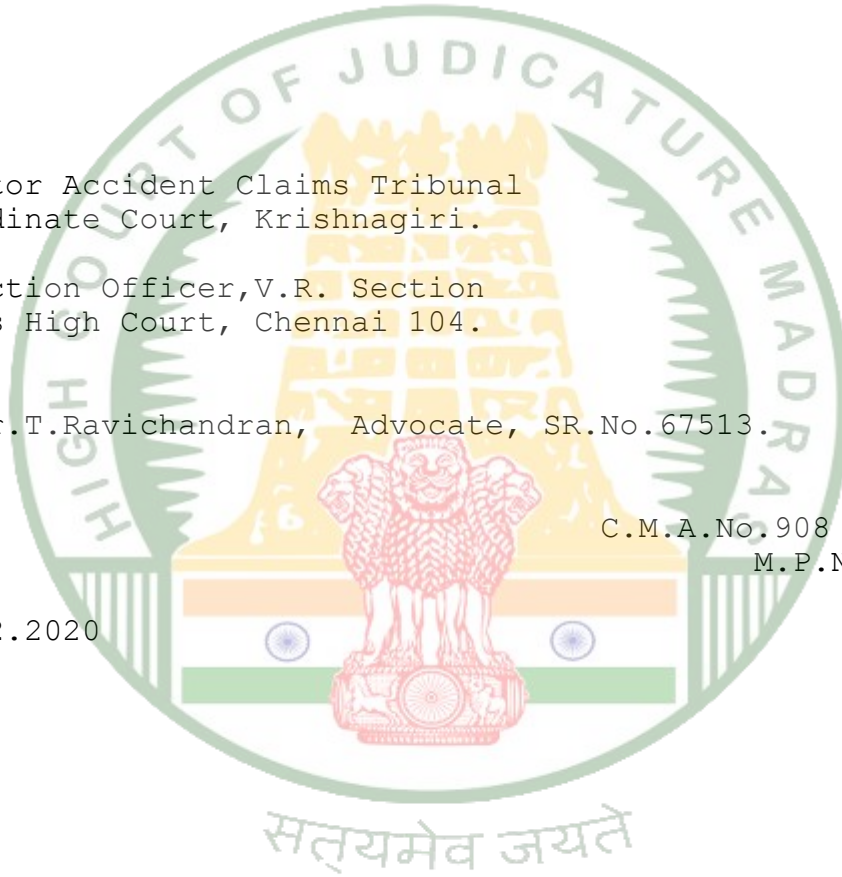
To

1. The Motor Accident Claims Tribunal
Subordinate Court, Krishnagiri.
2. The Section Officer, V.R. Section
Madras High Court, Chennai 104.

+1cc to Mr.T.Ravichandran, Advocate, SR.No.67513.

C.M.A.No.908 of 2008 and
M.P.No.1 of 2008

AD(CO)
CSR: 19.02.2020



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