

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CMA.No.2536 of 2009

and

M.P.No.1 of 2009

The Divisional Manager,
M/s. National Insurance Co. Ltd.,
Pondichery. ...Appellant/Respondent No.2

Vs.

1.Ramachandran ...1st Respondent/Petitioner
2.P.R.Krishnaoorthy ...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 23.12.2008, in M.C.O.P.No. 159 of 2008, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, FTC-I, Chidambaram.

For Appellant : M/s.Lakshmi
for Mr.J.Chandran

For Respondents : Mr.A.Murugan for R1
R2 - Not ready in notice

JUDGMENT

This Civil Miscellaneous Appeal is filed by the National Insurance Company Limited, challenging, the Judgment and decree passed in M.C.O.P.No. 159 of 2008, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, FTC-I, Chidambaram.

2. The brief case of the first respondent / claimant is as follows:

(i) The first respondent / claimant was aged 53 years on the date of the accident. He was working as Inspector of Assessment in Tamil Nadu Electricity Board and was earning a sum of Rs.14,445/- per month.

(ii) On 14.09.2006, at about 07.30 pm, the first respondent / claimant was riding his TVS 50 bearing Registration No. TN 31 8121 from Sethiyathoppu cross road to Manakkadu

village and one Sundhari was travelling as a pillion rider in the said TVS 50. At that time, a motorcycle bearing Registration No. TN 09 N 8656, belonging to the second respondent herein, ridden by its rider in a rash and negligent manner, hit against the first respondent / claimant's vehicle, as a result of which, the first respondent / claimant sustained grievous injuries all over his body.

(iii) Immediately, the first respondent / claimant was taken to Sona Hospital, Chidhambaram and he has taken treatment as outpatient in the said Hospital. He has also taken treatment in the Government Hospital, Chidhambaram.

(iv) According to the first respondent/claimant, the rash and negligent riding of the rider of the motorcycle bearing Registration No. TN 09 N 8656, belonging to the second respondent herein, was the cause of the accident, and that, since, the said motorcycle was insured with the National Insurance Company Limited, the the owner and the insurer of the said motorcycle are jointly and severally liable to pay compensation of Rs.6,00,000/- to him.

3. The owner of the motorcycle bearing Registration No. TN 09 N 8656 was absent before the Tribunal and therefore, he was set ex-parte. The National Insurance Company Limited contested the claim petition. The Insurance Company has disputed the age, avocation and monthly income of the first respondent / claimant before the Tribunal and contended that the quantum of compensation claimed by the first respondent / claimant is very excessive.

4. Before the Tribunal, on the side of the first respondent / claimant, PW1 and PW2 were examined and exhibits P1 to P8 were marked. In addition to the above, X-ray was also marked on the first respondent / claimant's side. On the side of the Insurance Company, no oral or documentary evidences were adduced.

5. The learned Additional District Judge, after taking into consideration all the oral and documentary evidences adduced before the Court, awarded a compensation of Rs.22,658/- together with interest at the rate of 7.5% per annum and directed the owner and the insurer of the motorcycle bearing Registration No. TN 09 N 8656 to pay the said compensation jointly and severally to the first respondent/claimant. Aggrieved over the order passed by the learned Judge, the National Insurance Company Limited has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard both sides.

7. A perusal of the records shows that the Tribunal based upon the oral evidence of PW1 and also based upon the exhibits P1 to P7 came to the conclusion that the motorcycle bearing Registration No. TN 09 N 8656 is involved in the accident and the said vehicle has been insured with the Insurance Company and held that both the owner as well as the insurer of the motorcycle bearing Registration No. TN 09 N 8656 are jointly and severally liable to pay compensation to the first respondent / claimant. In the absence of any contra evidence, this Court is of the considered view that the rash and negligence fixed on the part of the rider of the motorcycle bearing Registration No. TN 09 N 8656 and the involvement of the said vehicle in the accident may be hereby confirmed.

8. Quantum of compensation: Based on the oral evidence of Dr.Balamurugan (PW2) who has issued permanent disability certificate (Ex.P8), the Tribunal has awarded a sum of Rs.15,000/- towards 'permanent disability' and based on the medical bills (Ex.P6), the Tribunal has awarded a sum of Rs.7,658/- towards 'medical expenses'. Therefore, the Tribunal based on the evidences awarded a total sum of Rs.22,658/- to the first respondent / claimant. Considering the nature of injuries sustained by the first respondent/ claimant, the said amount awarded by the Tribunal is just and fair and the same does not suffer from any illegality or irregularity. Accordingly, the quantum of the compensation awarded by the Tribunal is hereby confirmed.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.

(iii) The appellant / National Insurance Company Limited is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.22,658/- together with interest at the rate of 7.5% per annum (if not already deposited) to the credit of M.C.O.P.No. 159 of 2008, dated 23.12.2008, on the file of the Motor Accidents Claims Tribunal, the learned Additional District Judge, FTC-I, Chidambaram within a period of eight weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the appellant, the first respondent / claimant is permitted to withdraw the same immediately, in the manner known to law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Additional District Judge,
FTC-I,
Chidhambaram.

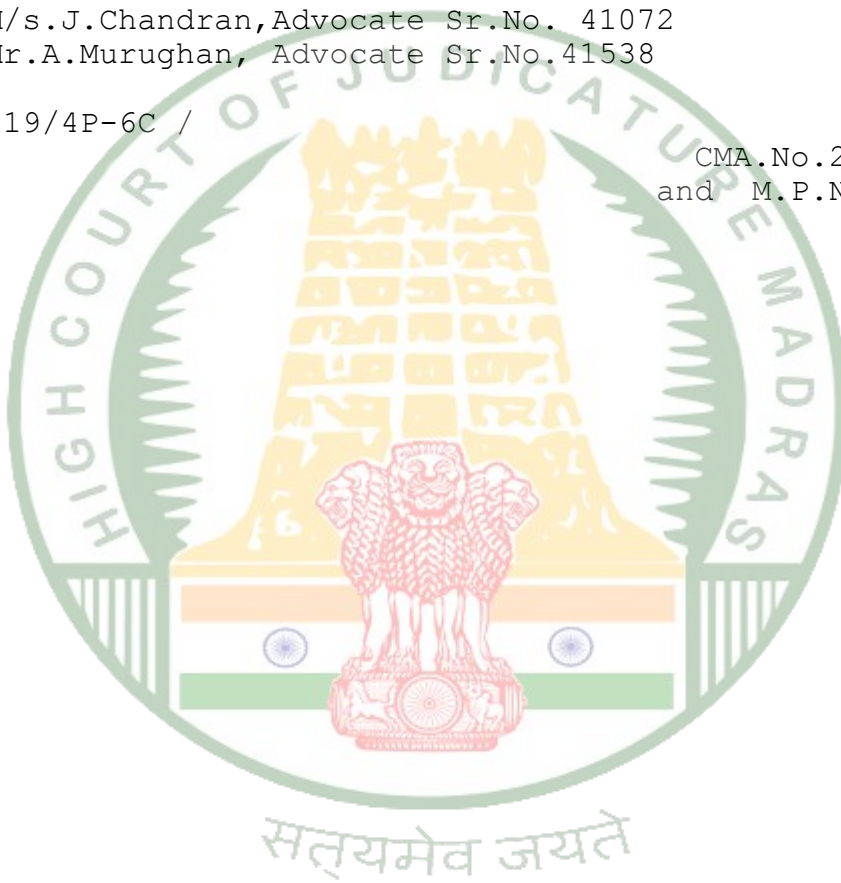
Copy to : The Section Officer, V.R.Section,
High Court, Madras.

+1 cc to M/s.J.Chandran, Advocate Sr.No. 41072

+1 cc to Mr.A.Murughan, Advocate Sr.No.41538

AKM/14.09.19/4P-6C /

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