

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2900 of 2010

The New India Assurance Co. Ltd.,
Rep. by The Manager, 5th Floor,
45, Moore Street, Chennai. ... Appellant/2nd Respondent

vs.

1.Minor Girija
(represented by her guardian and next friend
her father Dhanasekaran)

2.Nagarajan ... Respondents

(The R2 remained exparte before the tribunal)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 21.04.2008 passed in MCOP.No.17 of 2005 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Chengalpattu.

Appellant : Mr.G.Udayasankar

Respondents : No appearance

J U D G M E N T

The appellant / New India Assurance Company Limited is the second respondent in MCOP.No.17 of 2005 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Chengalpattu. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,50,000/- for the injuries sustained by her in a road accident on 03.11.2002.

2. The case of the claimant in nutshell is as follows:

On 03.11.2002, she was walking with her father on Tambaram - Velacherry road and at about 10.45 a.m, a speeding motorcycle bearing Registration No.TN 22 J 1342 hit her, as a result whereof, she sustained injuries all over her body. She was immediately rushed to a nearby hospital.

3. According to the claimant, the rash and negligent riding of the rider of the motorcycle bearing Registration No.TN 22 J 1342 belonging to the second respondent was the cause of the accident and that since the said motorcycle was insured with the present appellant / New India Assurance Company Limited, the owner and the insurer of the motorcycle are jointly and severally liable to pay compensation.

4. The second respondent, owner of the motorcycle remained absent before the Tribunal and therefore, he was set ex-parte. The appellant / New India Assurance Company Limited contested claim petition on all the grounds available to the insured. The learned Principal Subordinate Judge / Motor Accident Claims Tribunal, Chengalpattu after analysing the evidence on record, awarded a compensation of Rs.55,000/- together with interest at the rate of 7.5% per annum to the claimant. Questioning their liability to pay compensation as the driver of the two wheeler had no valid driving license on the date of accident, the appellant / New India Assurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.G.Udayasankar, learned counsel appearing for the appellant fairly conceded that the rider of the two wheeler had a valid driving license on the date of the accident. A copy of the driving license is also placed before this Court.

6. No appearance on behalf of the respondents.

7. As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel appearing for the appellant and no cross objection / appeal was filed by the claimant. A perusal of the award also shows that it is not on the higher side and in the facts and circumstances, the appeal fails and is dismissed.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

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

(iii) The appellant / New India Assurance Company Limited is directed to deposit the compensation awarded by the Tribunal i.e., Rs.55,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.17 of 2005 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Chengalpattu within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent/
claimant is at liberty to withdraw the same after following
due process of law.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

mtl

To

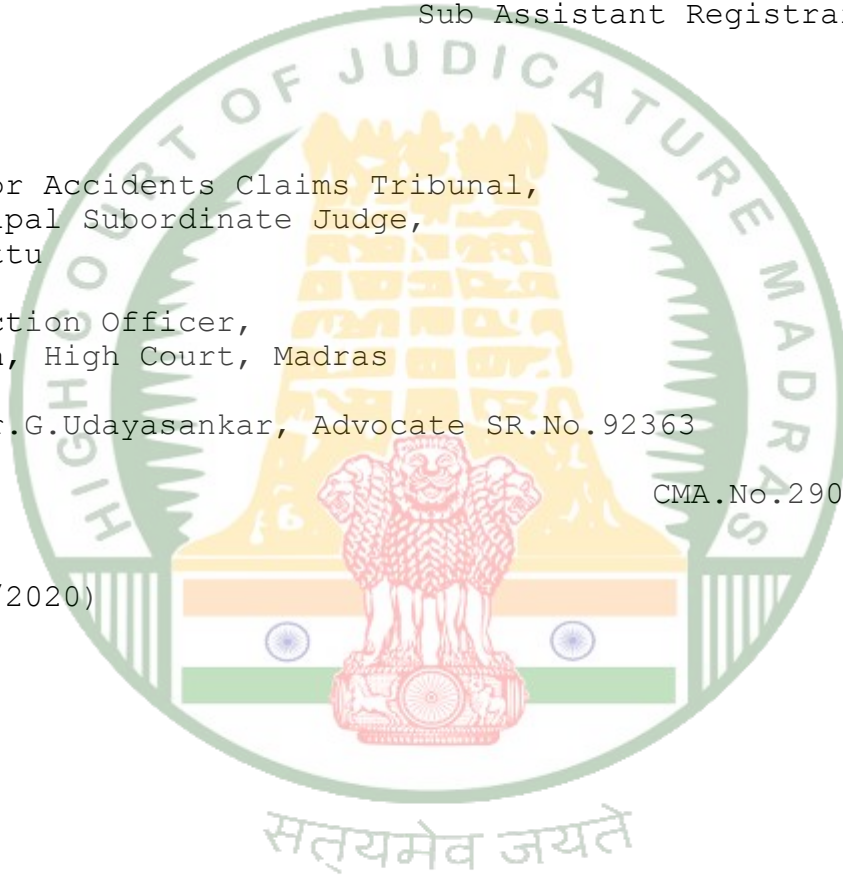
1. The Motor Accidents Claims Tribunal,
The Principal Subordinate Judge,
Chengalpattu

2. The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.G.Udayasankar, Advocate SR.No.92363

CMA.No.2900 of 2010

SR(CO)
GMY (19/08/2020)



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