

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.3096 OF 2010

AND

MP.NO.1 OF 2010

National Insurance Company Limited,
Rajaji Veedhi,
Gangeyam.

...Appellant/2nd Respondent

vs.

1.Vanitha

.. 1st Respondent/Claimant

2.Shanmugavel

.. 2nd Respondent/1st Respondent

3.Koothappan

.. 3rd Respondent/3rd Respondent

4.United India Insurance Co. Ltd.,
74-A, Salai road,
Trichy.

.... 4th Respondent/4th Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 10.10.2008 passed in MCOP.No.194 of 2004, on the file of the Motor Accident Claims Tribunal/Fast Track Court No.3, Dharapuram.

For Appellant : Mrs.R.Sreevidhya
For Respondents : No appearance

J U D G M E N T

The National Insurance Company Limited, the second respondent in MCOP.No.194 of 2004, on the file of the Motor Accident Claims Tribunal/Fast Track Court No.3, Dharapuram has filed the present appeal. The first respondent/claimant filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries sustained by her in a road accident on 01.08.2003.

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

On 01.08.2003, the claimant was travelling in an auto bearing Registration No. TN 36 D 8213 belonging to the second respondent and insured with the present appellant on Vathalakundu-Chembatti road. At about 11.00 pm, a speeding car bearing Registration No. TN 49 Y 2277 belonging to the third respondent and insured with the fourth respondent hit the auto, as a result of which, she sustained injuries all over her body. According to the claimant, the rash and negligent driving of the drivers of the auto and the car was the cause of the accident and therefore, the owners and the insurers of the said vehicles are jointly and severally liable to pay compensation.

3. The second and third respondents (owners of both the vehicles), remained absent before the Tribunal and therefore, they were set ex-parte. The National Insurance Company and the United India Insurance Company contested the claim petition on all the grounds available to the insured. The learned Judge, Fast Track Court No.3/Motor Accident Claims Tribunal, Dharapuram after analysing the evidence on record, awarded a compensation of Rs.15,000/- together with interest at the rate of 7.5% per annum to the claimant and fixed the negligence on the part of the drivers of both the vehicles in the ratio 50:50. Aggrieved over the orders passed by the Tribunal, the National Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mrs.R.Sreevidhya, learned counsel appearing for the appellant. No appearance on behalf of the respondents.

5. A perusal of the records shows that the Tribunal based on the oral and documentary evidences adduced on both sides, had clearly held that there is a composite negligence on the part of the drivers of the second and third respondents and apportioned the compensation in the ratio 50:50. The Tribunal had in fact given cogent reasons for coming to such a conclusion and I do not see any reason to interfere with the findings recorded by the Tribunal. Therefore, the orders passed by the Tribunal is upheld.

6. In the result the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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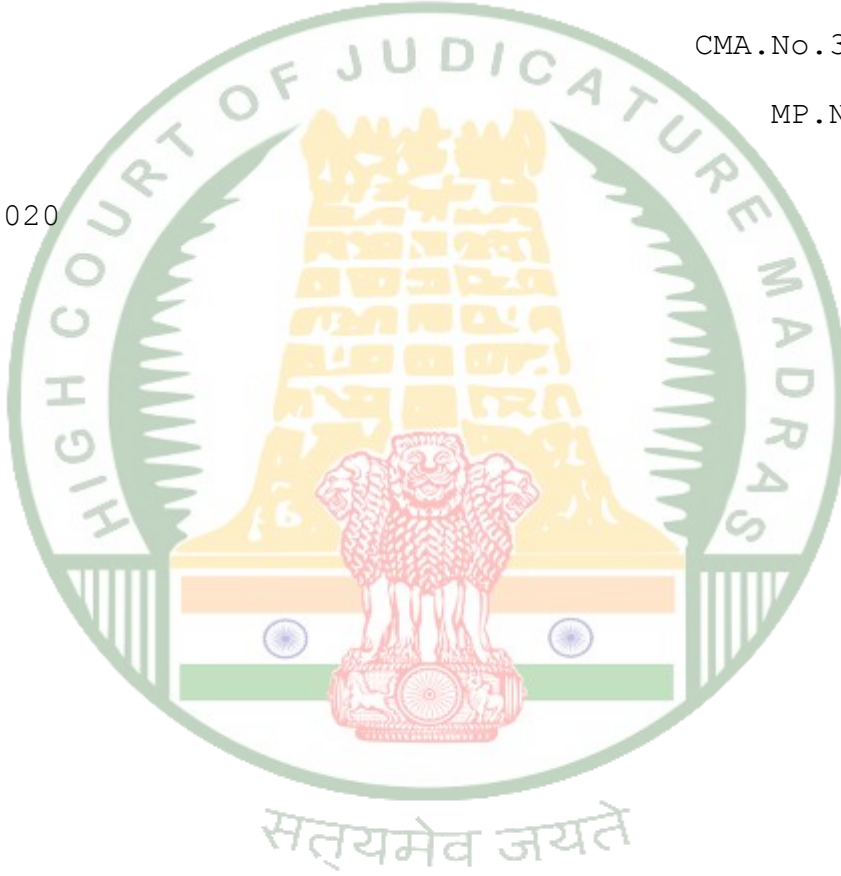
The Motor Accident Claims Tribunal,
Fast Track Court No.3, Dharapuram.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+lcc to Mrs.R.Sreevidhya, Advocate, S.R.No.87841

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VBA (CO)
CS/13/02/2020



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