

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.3082 of 2009 and
M.P.No.1 of 2009

The Divisional Manager,
The United India Insurance Co. Ltd.,
46, Katpadi Road, Vellore. Appellant/2nd Respondent

Vs.

1. Sabir1st Respondent/Petitioner
2. K.Jagan2nd Respondent/1st Respondent

Prayer This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the orders dated 05.06.2009 passed in M.C.O.P.No.81 of 2007 by the Additional Subordinate Judge/ Motor Accident Claims Tribunal, Thiruvannamalai.

For Appellant : Mr.G.Udayasankar

For Respondents : Mr.G.Rajam (for R1)
No appearance for R2

J U D G M E N T

सत्यमेव जयते

The Divisional Manager, United India Insurance Company Limited, Vellore, who is the 2nd respondent in MCOP No.81 of 2007 on the file of the Additional Subordinate Judge, Motor Accident Claims Tribunal, Thiruvannamalai, has filed the present appeal under Section 173 of the Motor Vehicles Act.

2. The first respondent/claimant filed the above said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident that took place on 11.07.2002.

3. The case of the first respondent/claimant is that on 11.07.2002 at about 12.00 hours, he was travelling as a passenger in an auto bearing registration No. TN-58-5586. When the auto was nearing Veerapandi Village Market, the driver of the auto drove the vehicle rashly and negligently and hit a post, as a result of which, the claimant sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the auto was the cause of accident and that since the owner of the auto (2nd respondent) insured his vehicle with the appellant, The United India Insurance Company, both of them are jointly and severally liable to pay compensation to him.

4. After analysing the evidence on record, the Additional Subordinate Judge/ Motor Accident Claims Tribunal, Thiruvannamalai, awarded a compensation of Rs.68,000/- to the claimant together with interest at the rate of 7.5% per annum. Aggrieved over the orders passed by the Tribunal, the United India Insurance company Limited, Vellore has filed the present appeal questioning their liability to pay compensation to the claimant.

5. Mr.G.Udayasankar, learned counsel appearing for the appellant/Insurance Company contended that since the accident took place due to mechanical failure in the auto, the Tribunal was wrong in fixing the liability on the Insurance Company and therefore prayed to set aside the orders passed by the Tribunal with regard to their liability to pay compensation to the claimant.

6. A perusal of the records shows that both the claimant and the insurance company did not file the report of the Motor Vehicle Inspector pertaining to the auto bearing registration No.TN-58-5586. Moreover, there is no record to show that the accident took place only due to the mechanical failure of the auto belonging to the 2nd respondent. The Tribunal had also analysed this aspect in extenso and had concluded that the accident did not take place due to mechanical failure in the auto. All the observations made by the Tribunal are perfectly in order and I do not find any reason to interfere findings recorded by the Tribunal. Therefore, the appeal is liable to be dismissed.

7. In the result, the civil miscellaneous appeal is dismissed. No costs. The connected miscellaneous petition is closed. The orders dated 05.06.2009 passed in MCOP No.81 of 2007 by the Additional Subordinate Judge/ Motor Accident Claims Tribunal, Thiruvannamalai is upheld.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mst

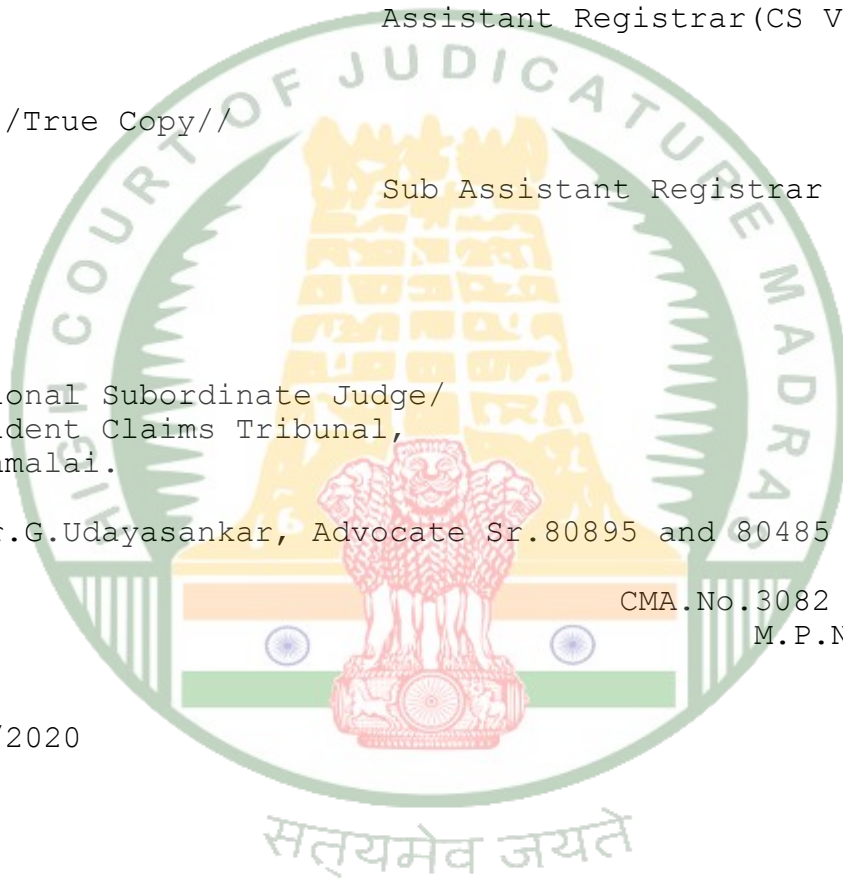
To

The Additional Subordinate Judge/
Motor Accident Claims Tribunal,
Thiruvannamalai.

+2cc to Mr.G.Udayasankar, Advocate Sr.80895 and 80485

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srg 04/03/2020



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