

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.3316 of 2009 and
M.P.No.1 of 2009
and
Cross Objection No.152 of 2010

In CMA No.3316 of 2009

The National Insurance Company Limited,
Branch Office-I, Thanthai Periyar Market Complex,
P.B.No.15, Salem, 636 001. ... Appellant

Vs.

1. Govindaraj
2. Bhoopathy Rajan
3. A.J.Mohan ... Respondents

In Cross Objection No.152 of 2010

A.J.Mohan ... Cross Objector

Vs.

1. The National Insurance Company Limited,
Branch Office-I, Thanthai Periyar Market Complex,
P.B.No.15, Salem, 636 001.

2. Govindaraj

3. Bhoopathy Rajan ... Respondents

Prayer in CMA No.3316 of 2009 This Civil
Miscellaneous Appeal has been filed under Section 173 of the
Motor Vehicles Act, 1988, against the orders dated 24.07.2009
passed in M.C.O.P.No.674 of 2005 by the Additional District
Judge/ Motor Accident Claims Tribunal, Fast Track Court-I,
Salem.

Prayer in Cross Objection No.152 of 2010 Cross
Objection filed under Order XLI, Rule 22 of the Code of Civil
Procedure, against the orders dated 24.07.2009 passed in
M.C.O.P.No.674 of 2005 by the Additional District Judge/
Motor Accident Claims Tribunal, Fast Track Court-I, Salem.

In CMA No.3316 of 2009

For Appellant : Mr.J.Chandran
For Respondents : Mr.K.Selvaraj (for R3)
No appearance for R1 and R2

In Cross Objection No.152 of 2010

For Cross Objector : Mr.Sugirdha Selvaraj
For Respondents : Mr.J.Chandran (for R1)
No appearance for R2 and R3

COMMON JUDGMENT

The National Insurance Company Limited, Salem, the 3rd respondent in MCOP No.132 of 2005 on the file of the Additional District Judge/ Motor Accident Claims Tribunal, Fast Track Court-I, Salem, filed the present appeal under Section 173 of the Motor Vehicles Act, and the Mr.A.J.Mohan, the original owner of the offending vehicle filed the cross objection.

2. The first respondent/claimant filed the above said claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident that took place on 12.03.2005.

3. The case of the claimant is that on 12.03.2005 at about 9.00 hours, when he was travelling as a pillion rider in a motorcycle bearing registration No.TN-27-P 0542, which was ridden by his son Srinivasan on Salem-Sankari Main Road, a speeding auto bearing registration No.TN-27-1609 hit the motorcycle, as a result of which, he 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 2nd and 3rd respondents, owners of the Auto insured their vehicle with the appellant, all of them are jointly and severally liable to pay compensation to him.

4. The learned Additional District Judge/ Motor Accident Claims Tribunal, Fast Track Court-I, Salem, after analysing the evidence on record, awarded a compensation of Rs.10,000/- together with interest at the rate of 7.5% per annum to the claimant. The Tribunal further held that since the Registration Certificate of the Auto bearing registration No. TN-27-1609 stood in the name of the 2nd respondent on the date of accident, he as well as the appellant, the National Insurance Company Limited are jointly and severally liable to pay compensation to the claimant. Aggrieved over the orders passed by the Tribunal, the National Insurance Company Limited has filed the present appeal while the 2nd respondent A.J.Mohan has filed the cross objection.

5. A perusal of the records shows that the claimant had sustained three injuries in the accident. Since the nature of the injuries was not mentioned in the wound certificate (Ex.P6), the Tribunal had rightly concluded that the injuries were simple in nature and awarded Rs.10,000/- as compensation together with interest at the rate of 7.5% per annum to the claimant. Hence, I do not see any reason to interfere with the findings recorded by the Tribunal.

6. As regards the cross objection filed by the 2nd respondent A.J.Mohan is concerned, the learned counsel appearing for the cross objector contended that on the date of accident, the cross objector A.J.Mohan has sold his vehicle in favour of one Bhoopathy Rajan and the Registration Certificate of the vehicle was also transferred on 12.10.2004 in his favour. He further contended that though on the date of accident i.e. on 12.03.2005, the cross objector was not the owner of the Auto and the insurance policy also stood only in the name of first respondent Bhoopathy Rajan, the Tribunal without considering these aspects had fastened liability on the 2nd respondent (A.J.Mohan) to pay compensation to the claimant. He also produced the copy of the registration certificate of the Auto bearing registration No.TN-27-1609, which shows that the registration certificate was transferred in the name of the first respondent Bhoopathy Rajan on 12.10.2004. Since the accident took place on 12.03.2005, the Tribunal was wrong in fixing liability on the 2nd respondent.

7. In the said circumstances, I hold that the 2nd respondent (Bhoopathy Rajan) and the appellant, National Insurance Company Limited are liable to pay compensation to the claimant.

8. In the result,

(i) The civil miscellaneous appeal in CMA 3316 of 2009 is dismissed. No costs. The connected miscellaneous petition is closed.

(ii) The cross objection No.152 of 2010 is allowed. No costs.

(iii) The quantum of compensation awarded by the Tribunal is upheld.

(iv) The 2nd respondent (Bhoopathy Rajan) and the appellant, the National Insurance Company Limited are directed to pay compensation as awarded by the Tribunal and their liability is joint and several.

Sd/-

Assistant Registrar(CS VI)

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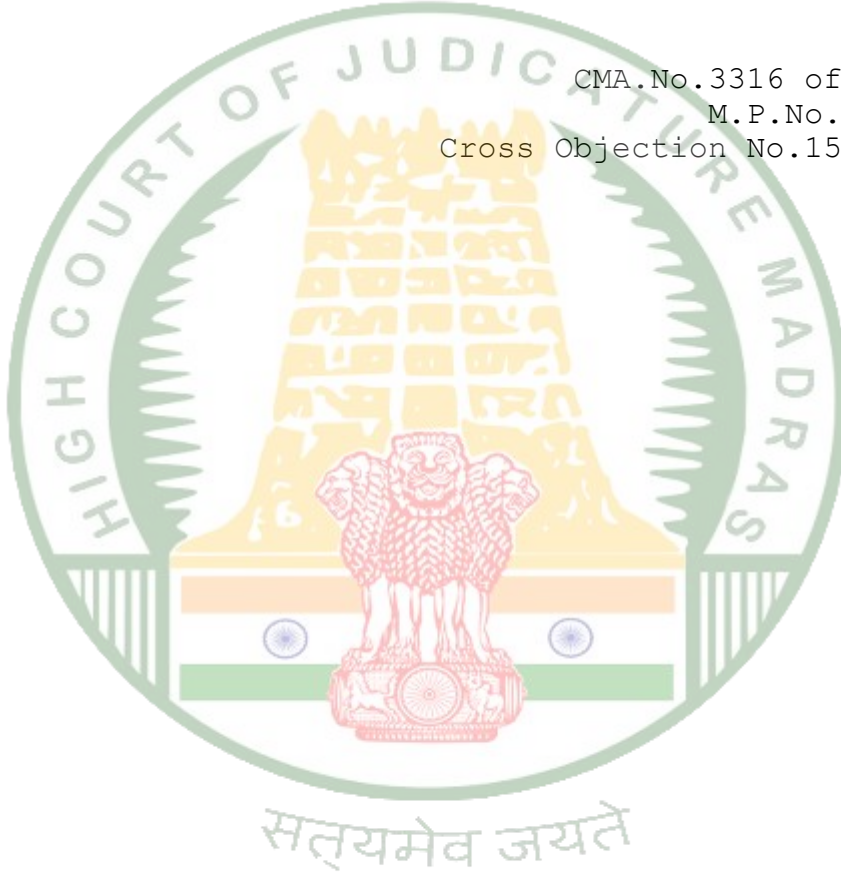
To

1. Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court-I, Salem.
2. The National Insurance Company Limited,
Branch Office-I, Thanthai Periyar Market Complex,
P.B.No.15, Salem, 636 001.

+1 cc to Mr.K.Selvaraj, advocate,sr.81378.

rsv(co)
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M.P.No.1 of 2009
Cross Objection No.152 of 2010



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