

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 15.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.798 of 2009 and

M.P.No.1 of 2009

M/s United India Insurance
Company Limited,
Branch Office, Mettur Dam,
Salem Main Road.

...Appellant / 2nd Respondent

Versus

1. Elango

2. S.Dharmalingam

..Respondents / Petitioner ,
1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.02.2007 made in O.P.No.87 of 2004 on the file of the Mottor Accident Claims Tribunal (Subordinate Judge) at Mettur.

For Appellant : Mrs.R. Sreevidya

For Respondents : No appearance.

J U D G M E N T

This appeal has been filed dated 20.02.1007 made in O.P.No.87 of 2004 on the file of the Mottor Accident Claims Tribunal, Subordinate Judge, at Mettur.

2. On 01.01.2003 the 1st respondent herein was travelling in a tempo bearing Registration No.TN-55-5899 for selling tomatoes in the Erode Vegetable Martket. When the tempo was crossing from Sangagiri to Pallipalayam the tempo back tyre was bursted and the tempo was capsized. In the result the 1st respondent herein sustained grievous injuries. The accident occurred only due to the rash and negligent driving by the driver of the tempo. Hence, the first respondent herein has filed M.C.O.P.No. 87 of 2004, before Motor Accidents Claims Tribunal, Sub ordinate Judge at Mettur, seeking for a compensation of Rs.1,00,000. The Tribunal, on a consideration of oral and documentary evidence,

has awarded a sum of Rs.20,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of the learned counsel for the appellant and perused the materials available on record. Notice was ordered on the respondents and the same is yet to be completed for service.

5. It is seen from the records that some other persons including who had met the accident on 01.01.2003, have filed C.M.A.Nos .Nos.318,317,325, 2030 and 2047 of 2008, before this Court and the same was disposed, vide order dated 26.07.2012. The relevant portion of the said order is extracted hereunder:

" According to the learned counsel for the appellant Insurance Company, in C.M.A.No.2030 of 2008, the appellant Insurance Company has deposited 50% of the award amount. In view of this Judgment passed in C.M.A.No.2030 of 2008, the appellant Insurance Company is directed to deposit the balance 50% of the award amount with interest at the rate of 7.5% per annum and if any amount had been deposited by the appellant Insurance Company in respect of other appeals, the appellant Insurance Company is entitled to withdraw the same. As far as the owner of the vehicle, viz., S. Dharmalingam is concerned, as held above within a period of four months from the date of receipt of a copy of this order, he is directed to make the payment to the claimants.

With the above direction and observation, these Civil Miscellaneous Appeals are disposed of. No Costs. Connected Miscellaneous petitions are closed.

5. In view of the Judgment pronounced by this Court in respect for the same accident, this Court does not intend to take a different view in this matter.

6. In the result,

(a) this appeal is disposed

(b) the appellant/Insurance company is directed to withdraw 50% of the amount already deposited and the 2nd respondent/owner of the vehicle is directed to make payment to the claimant

within a period of four months from the date of receipt of a copy of this Order.

(c) On such deposit, the petitioner/ claimant is permitted to withdraw the amount awarded as above by filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To.

- 1) The Motor Accident Claims , Sub ordinate Judge, Mettur.
- 2) The Section Officer, VR Section, High Court, Madras.

+1 cc to M/s.R.Sreevidhya, Advocate, S.R.No.25246

C.M.A. No.798 of 2009
and M.P.No.1 of 2009

NMI (CO)
SSM(10/06/2019)

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