

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN
C.M.A.No.170 of 2011 and
M.P.No.1 of 2011

1.National Insurance Co. Ltd.,
29, Bullah Avenue,
Shenoy Nagar,
Madras - 600 030.Appellant/2nd Respondent
Vs.

1.Harish (Minor)
(rep. by next friend and
father Manoharan)1st respondent/ Petitioner

2.M.Sanjeevi Naganathan 2nd Respondent/1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173
of the Motor Vehicles Act, 1988 against the Judgment and
decree dated 21.03.2006, in M.C.O.P.No. 277 of 1997, on
the file of the Motor Accidents Claims Tribunal,
(Subordinate Judge, at Dharmapuri.

For Appellant : Mr.S.Arunkumar

For Respondents : No appearance for R1
R2 - exparte

JUDGMENT

This Civil Miscellaneous Appeal is filed by the
National Insurance Company Limited, challenging, the
Judgment and decree passed in M.C.O.P.No. 277 of 1997 on
the file of the Motor Accidents Claims Tribunal,
(Subordinate Court), at Dharmapuri.

2. The brief case of the first respondent/claimant is
as follows:

On 05.02.1996, at about 01.30 am, the first
respondent/ claimant and his family members were travelling
in a car bearing Registration No. TN 01 F 3018, belonging
to the second respondent herein and insured with the
present appellant. When the said car was reaching near
Muniappan Koil, the front side going lorry applied sudden
brakes, as a result of which, the car dashed against the
lorry. Due to the accident, the said car was fully
collapsed and the first respondent/claimant and his family
members sustained grievous injuries. The first
respondent/claimant's right leg was fractured. He was

immediately taken to Sri Gokulam Hospital, Salem and was admitted as an inpatient and an operation was performed in his right leg. He has taken continuous treatment for one month in the said hospital.

3. According to the first respondent/claimant, the rash and negligent driving of the driver of the car bearing Registration No. TN 01 F 3018, was the cause of the accident, and that, since, the said car was insured with the present appellant, both the owner of the said car and the present appellant, are jointly and severally liable to pay compensation of Rs.3,00,000/- to him.

4. The learned Tribunal, after analysing the evidence on record, awarded a compensation of Rs.1,75,740/- together with interest at the rate of 7.5% per annum to the first respondent/claimant. Aggrieved over the orders passes by the Tribunal, the United India Insurance Company have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel appearing for the appellant has submitted that, in respect of the claim petition arising out of the very same accident, the very same Insurance Company, who is the appellant herein has deposited the amount and the same is withdrawn by the claimant in M.C.O.P.No. 199 of 1997, dated 30.09.2011, on the file of the Motor Accidents Claims Tribunal, Dharmapuri.

6. The learned counsel who appeared for the first respondent/claimant, during previous hearings, has asked further time for getting instruction, on that particular point. Since, sufficient time has already been granted to verify the same, and since, the appellant/Insurance Company has accepted the liability and honoured the award in respect of the claim petition in M.C.O.P.No.199 of 1997, dated 30.09.2011, on the file of the Motor Accidents Claims Tribunal, Dharmapuri, this court is of the considered view that, the question of liability need not be gone into, at this juncture.

7. Quantum of Compensation: The Tribunal after taking into consideration various aspects, has awarded a just and reasonable compensation to the first respondent/claimant and the same is hereby confirmed.

8. In the result,

(i) The Civil Miscellaneous Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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

(iii) The Tribunal has ordered only 'pay and recovery' and therefore, it is open to the National Insurance Company Limited to execute the order as stated in the decree of the court below.

Sd/-
Assistant Registrar (CS)

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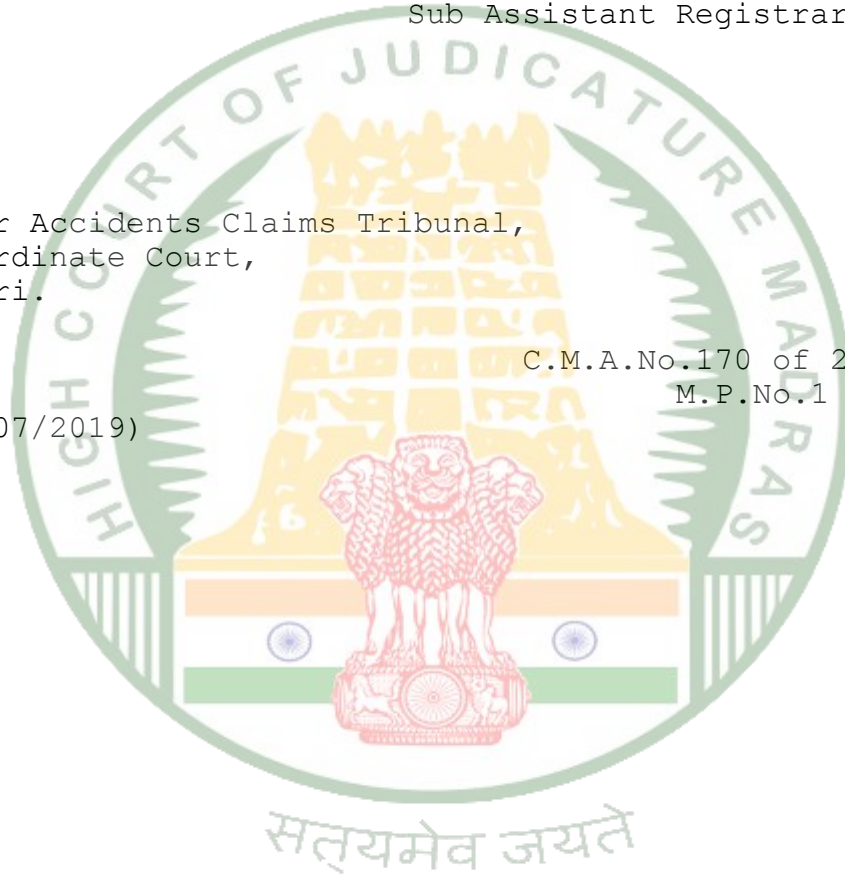
Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
The Subordinate Court,
Dharmapuri.

C.M.A.No.170 of 2011 and
M.P.No.1 of 2011

A.SK(17/07/2019)



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