

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2138 of 2012

and

M.P.No.1 of 2012

New India Assurance Company Limited,
No.2, B.R.Complex, Woods Road,
Anna Salai, Chennai-2. ... Appellant/2nd Respondent

vs.

1. Govindarajulu ...Respondent/Petitioner
Krishnamurthy (Died)
2. Malathi ...Respondent/3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 23.12.2011 made in MCOP.No.492 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Judge (Fast Track Court No.4), Ponneri.

For Appellant : Mr.Elveera Ravindran

For Respondents : No Appearance

J U D G M E N T

The appellant / New India Assurance Company Limited, is the respondent in MCOP.No.492 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Judge (Fast Track Court No.4), Ponneri. The 1st respondent(since deceased) / claimant has filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident on 07.02.2007.

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

On 07.02.2007, the claimant was driving the bus belonging to the Metropolitan Transport Corporation along Sipcot Road, Guindy Estate, Chennai and at about 10.25 hours, a speeding Crane bearing Registration No.TN-09-B-0772 hit the bus, as a result of which, he sustained grievous injuries. According to the

claimant, the accident took place due to the rash and negligent driving of the driver of the Crane bearing Registration No.TN-09-B-0772 and therefore, the owner and the insurer are jointly and severally liable to pay compensation.

3. The learned Additional District Judge (Fast Track Court No.4), Ponneri / Motor Accident Claims Tribunal, awarded a compensation of Rs.20,000/- together with interest at the rate of 7.5% per annum to the claimant and directed both the owner and the insurer to pay the award amount jointly and severally. Questioning the liability to pay compensation to the claimant, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.Elveera Ravindran, learned counsel for the appellant contended that since the driver of the crane was not in possession of valid driving licence on the date of accident, the Insurance Company cannot be held liable to pay compensation.

5. The Insurance Company did not adduce sufficient evidence to show that the driver of the crane was not having valid driving licence on the date of the accident. Moreover, no notice was issued by the Insurance Company to the owner and driver of the Crane requesting them to produce the driving licence. In the absence of the same, the Insurance Company cannot avoid its liability to pay compensation to the claimant.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed and the orders passed by the Tribunal is upheld. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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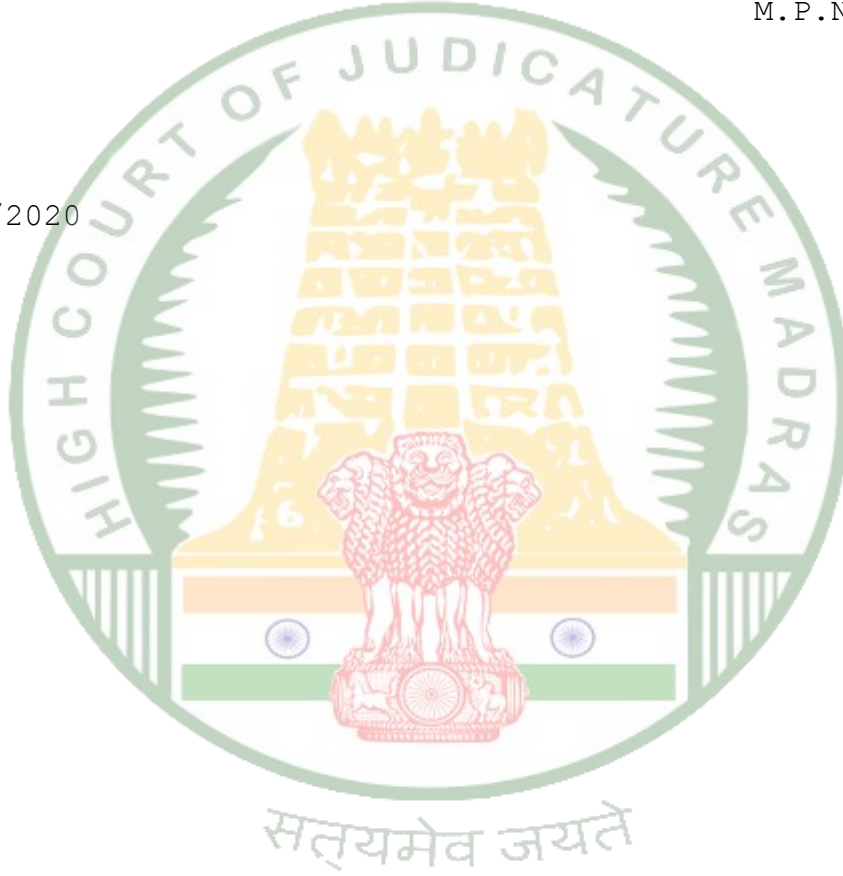
1. The Motor Accidents Claims Tribunal,
Additional District Judge (Fast Track Court No.4),
Ponneri.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+1cc to M/s.Elveera Ravindran, Advocate Sr.94553

CMA.No.2138 of 2012
and
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srg 14/09/2020



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