

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.3324 OF 2011

AND

M.P.NO.1 OF 2011

The Branch Manager,
M/s.Oriental Insurance Company Limited,
Subha Govindam Buildings,
Imperial Road, Cuddalore - 607 002. .. Appellant

Vs.

1.Mr.Ravichandran .. Respondent/Petitioner
2.Mr.P.Raman ..Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.04.2011 made in M.C.O.P.No.2544 of 2007 on the file of the Motor Accident Claims Tribunal, II Additional Subordinate Court, Cuddalore.

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.R.Bharath Kumar

For R2 : No appearance

JUDGMENT

The 2nd respondent before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and Decree dated 29.04.2011 made in M.C.O.P.No.2544 of 2007 on the file of the Motor Accident Claims Tribunal, II Additional Subordinate Court, Cuddalore.

2. The case of the petition is that on 26.02.2007 at about 12.30 hours when the claimant was riding in his Motor Cycle bearing Registration No.P.Y.I.B.2066 from East to West at a moderate speed keeping extreme left hand side of the hospital road, opposite the circuit house, Cuddalore, the first

respondent's vehicle (Tractor) bearing Registration No.T.N.60.1618 which was proceeding in a rash and negligent manner suddenly stopped without giving any proper signal to the following vehicles. As a result of the accident, claimant's motor cycle went and dashed against the Tractor. Due to the accident, the claimant sustained injuries and admitted in Government Hospital treated as an in-patient for seven days and taking further treatment in private hospital.

3. Before the Tribunal, the second respondent-Insurance Company resisted the claim of the injured alleging that at the time of the accident, the driver of the first respondent's vehicle (Tractor) has no driving licence and hence, the second respondent-Insurance Company may be exonerated.

4. Before the Tribunal, P.W.1 and P.W.2 were examined and Exhibits P1 to P10 were marked and R.W.1 was examined on behalf of the Insurance Company and Exhibits R1 to R3 were marked.

5. Taking into consideration of oral and documentary evidence, the Tribunal come to the conclusion that the accident has occurred due to the rash and negligent manner at the driver of the first respondent and also held that at the time of the accident, the offending vehicle does not possess any valid licence and accordingly, ordered pay and recovery.

6. Taking into consideration of the decision of the Supreme Court that in respect of non-possession of driving licence by the driver of the offending vehicle pay and recovery principle may be applied in respect of third party claim and hence, I do not find any irregularity or illegality in the order passed by the Tribunal and accordingly, the liability fixed on the part of the driver. However, the pay and recovery has been ordered by the Tribunal does not warrant any interference after perusing the quantum awarded by the Tribunal.

7. Taking note of the fact that the injured S.Ravichandran was working as a Health Inspector, Theerthanagiri and also the period of in-patient, the quantum awarded by the Tribunal cannot be termed as excessive and hence, the same is hereby confirmed.

8. In view of this matter, this Civil Miscellaneous Appeal is dismissed. The Insurance Company has submitted that the entire amount has already been deposited. It is open to the

claimant to file petition before the Tribunal for withdrawal of the compensation amount. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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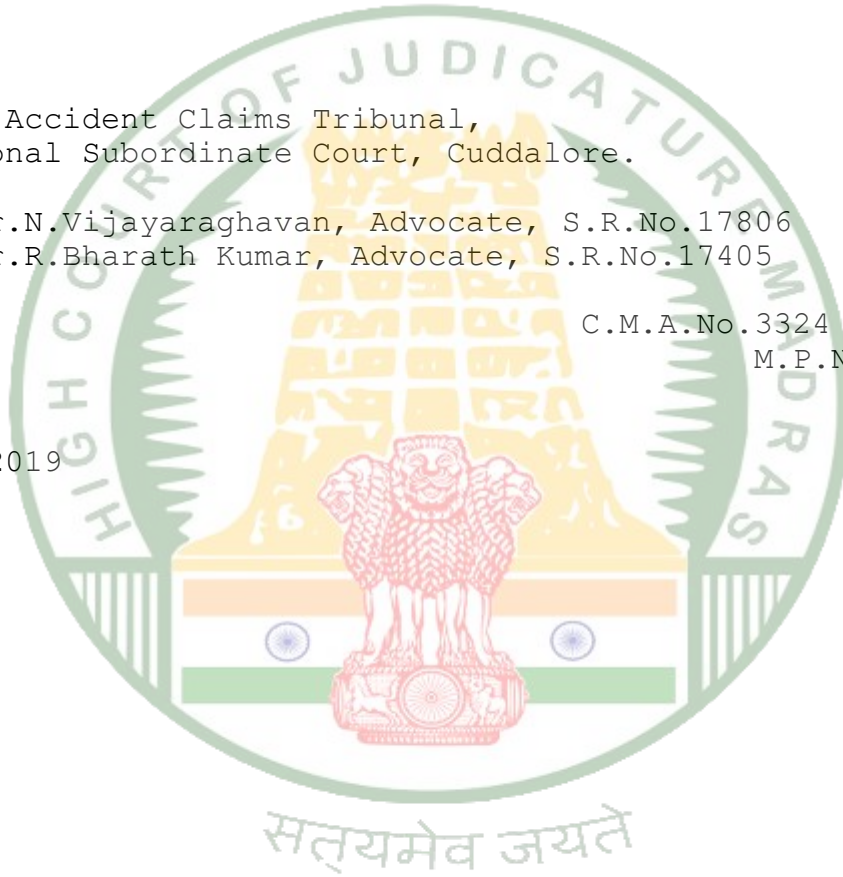
The Motor Accident Claims Tribunal,
II Additional Subordinate Court, Cuddalore.

+1cc to Mr.N.Vijayaraghavan, Advocate, S.R.No.17806

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.17405

C.M.A.No.3324 of 2011 and
M.P.No.1 of 2011

PP(CO)
CS/19/11/2019



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