

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.344 of 2011

and

M.P.No.1 of 2011

Bajaj Allianz General Insurance Company Limited,
No.25/26, Prince Towers, IV Floor,
College Road, Nungambakkam,
Chennai. .. Appellant/2nd Respondent

Vs.

1.N.Venkatesan .. 1st Respondent/Petitioner
2.L.R.Uma .. 2nd Respondents/ 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.02.2010 made in M.C.O.P.No.500 of 2005 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ponneri.

For Appellant : Mr.S.Arun Kumar

For Respondents : 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 22.02.2010 made in M.C.O.P.No.500 of 2005 on the file of the Motor Accidents Claims Tribunal, (Subordinate Court), Ponneri.

2. The first respondent herein has filed the compensation application before the Tribunal. On 07.04.2005 at about 8.00 p.m., at Redhills Bazaar GNT Road the first respondent was walking along the left side road and at that time, the second respondent's driver of the Bajaj Motor Cycle bearing Registration No.TN 20 AZ 4718 drove the vehicle in a rash and negligent manner and dashed against the first respondent and caused grievous injuries. The driver of the said motor cycle was solely responsible for the accident.

3. Before the Tribunal, the second respondent has taken a plea that the vehicle was not at all involved in the accident at material point of time and case was referred to the C.B.C.I.D. After trial, the Tribunal has passed an award a sum of Rs.79,300/- Aggrieved by the said award, the Insurance Company has preferred this appeal.

4. After going through the evidence of oral and documentary evidence and the evidence of P.W.1 coupled with Exhibits P1, P5, P7 and P8, the Tribunal has rightly come to the conclusion that the vehicle of the second respondent involved in the accident is responsible and based upon Exhibit P1 F.I.R, the police have conducted the investigation and filed the charge sheet as could be seen from Exhibit P8 and accordingly, held that the vehicle bearing Registration No.TN 20 AZ 4718 is involved in the accident which caused injuries on the claimant and also assessed the compensation for the permanent disability granted a sum of Rs.79,300/-

5. Considering the oral and documentary evidence and also taking note of the fact that the C.B.C.I.D has also not taken up the case and no further report either by C.B.C.I.D or any special agency has been filed before this Court to substantiate the stand that the alleged vehicle is not involved in this case, I hold that in the absence of any positive evidence to substantiate the plea at this appellate stage not being filed by the Insurance Company, the trial Court has rightly come to the conclusion that the said vehicle is involved in the accident. The finding of the Tribunal does not call for any interference and accordingly, the above said findings are hereby confirmed and the quantum of compensation awarded also appears to be reasonable.

6. In such view of the matter, this Civil Miscellaneous Appeal is dismissed. The Insurance Company shall deposit the compensation if not deposited already, before the Tribunal. 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-IV)

//True copy//

Sub Assistant Registrar

nvi

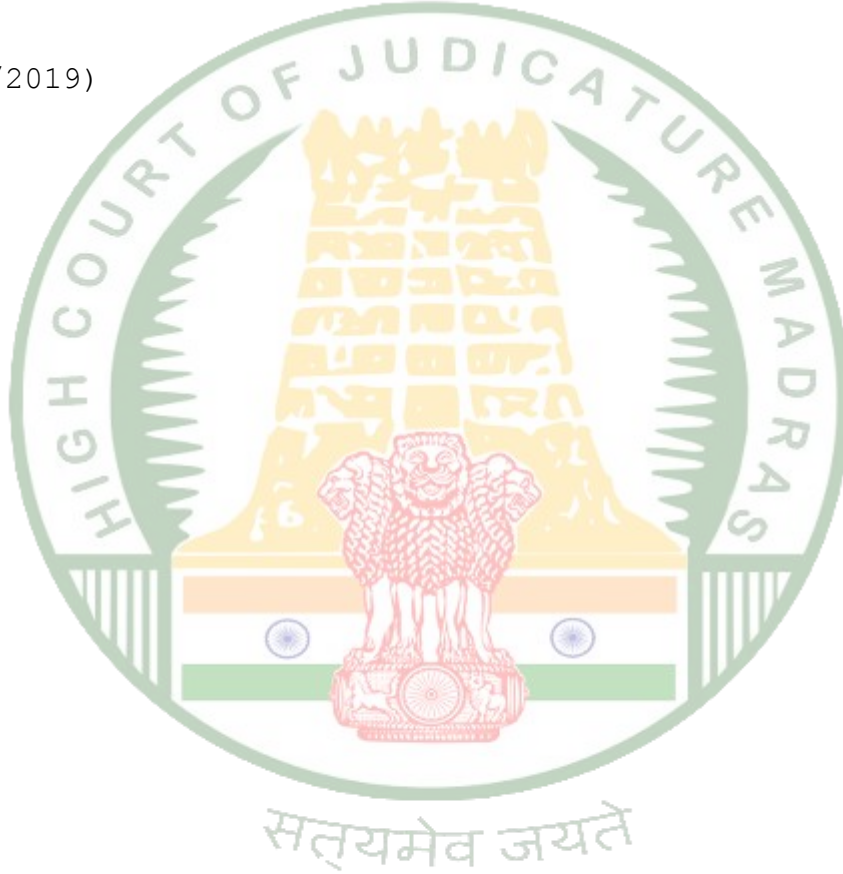
To
The Motor Accidents Claims Tribunal,
Subordinate Court, Ponneri.

Copy To
The Section Officer, VR Section
High Court, Madras

+1cc to Mr.S.Arunkumar, Advocate SR.No.16708

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M.P.No.1 of 2011

BS (CO)
GMY (04/06/2019)



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