

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.301 of 2015
and M.P.No.1 of 2015

The Branch Manager

M/s.New India Assurance Co. Ltd.

202-204, Mahatma Gandhi Road

Puducherry.

...Appellant

Vs.

1.Elumalai

2.Cormilar Rebert

...Respondents

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.10.2012 made in MCOP No.83/2011 on the file of the Motor Accidents Claims Tribunal (1st Additional District Judge) of Tindivanam at Villupuram - District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.G.Sathish for R1
R2 - Exparte

JUDGMENT

The case in brief, is as follows:

On 28.03.2007 at about 3.15 p.m., when the first respondent was constructing the road median works at Thattanchavadi on the Tindivanam - Pondy Main Road, an Ambassador Car bearing Reg. No.PYS-6657 belonging to the second respondent and insured with the appellant Insurance Company, came in a rash and negligent manner and dashed against the first respondent. Due to the impact, the first respondent sustained grievous injuries. The first respondent was immediately taken to the JIPMER hospital, thereafter, he was admitted and treated in the Government General Hospital, Puducherry. The first respondent filed a claim petition before the Tribunal claiming compensation for the injuries sustained. On consideration of the materials and evidence available on record, the Tribunal has awarded a total

compensation of Rs.77,000/- with interest at the rate of 7.5% per annum from the date of petition.

2.Challenging the same, the present appeal has been filed by the appellant Insurance Company.

3.The learned counsel for the appellant / Insurance Company has submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Ambassador car. He further submitted that the compensation awarded by the Tribunal is excessive.

4.The learned counsel for the first respondent / claimant has submitted that the Tribunal has considered the materials and evidence in a proper perspective and has passed the impugned judgment and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials and evidence available on record, carefully and meticulously.

6.The injured / claimant has been examined as P.W.1 before the Tribunal. He deposed the incident as stated in the claim petition. Ex.P1 is the First Information Report. Ex.P5 is the final report filed against the driver of the Ambassador car. It is also seen that no contra evidence has been adduced on the side of the Insurance Company. In the circumstances, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Ambassador car, which factual finding this Court is not inclined to interfere.

7.With regard to the quantum of compensation, the Tribunal has relied upon the exhibits, evidence of witnesses, treatment records, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the above compensation amount under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy

of this judgment. On such deposit, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kas/km

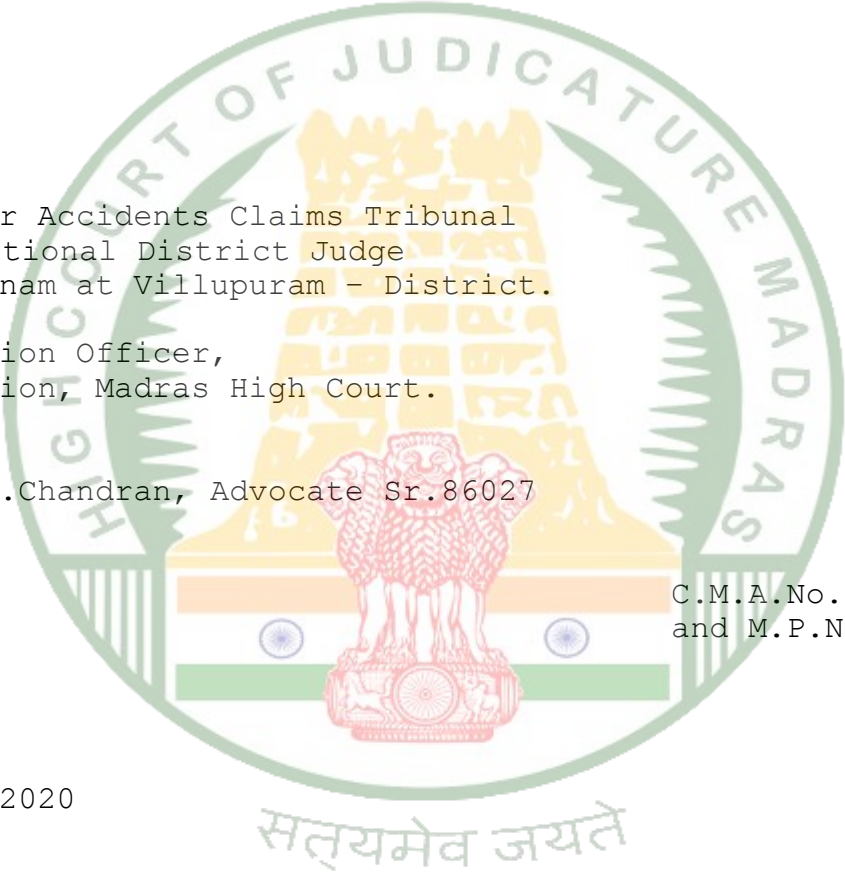
To

- 1.The Motor Accidents Claims Tribunal
1st Additional District Judge
Tindivanam at Villupuram - District.
- 2.The Section Officer,
VR Section, Madras High Court.

+1cc M/s.J.Chandran, Advocate Sr.86027

C.M.A.No.301 of 2015
and M.P.No.1 of 2015

rgn[col]
srg 19/11/2020



WEB COPY