

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.906 of 2019

and

C.M.P.No.2511 of 2019

The New India Assurance Co., Ltd.,
12, New hospital road
Gobichettipalayam.

.. Appellant

Vs

Premkumar @ Kumar (deceased)

1.Esther
(impleaded as deceased mother as per
interim application order)

2.R.Seethappan

3.Stephen

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2004 made in M.C.O.P.No.143 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode.

For Appellant : Mr.K.Ravindranath

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company, challenging the award dated 27.02.2004 made in M.C.O.P.No.143 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode.

2.The appellant-Insurance Company is 2nd respondent in M.C.O.P.No.143 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode. One Premkumar @ Kumar filed the said claim petition, claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the accident that took place on 08.12.1999. During pendency of the claim petition, the said Premkumar @ Kumar died and his mother was impleaded as a party to the claim petition. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred

due to rash and negligent driving by the 2nd respondent-driver of the Maruthi van belonging to the 3rd respondent and directed the appellant-Insurance Company being insurer of the said Maruthi van as well as respondents 2 & 3 to pay a sum of Rs.32,600/- as compensation to the 1st respondent. Challenging the said award dated 27.02.2004 made in M.C.O.P.No.143 of 2003, the appellant-Insurance Company has come out with the present appeal questioning the liability fastened on them.

3.The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal has failed to note that the insurance policy was not in force on the date of accident. The 3rd respondent-owner of the vehicle has taken the policy only on 09.12.1999 and the accident occurred on 08.12.1999 and prayed for setting aside the award of the Tribunal.

4.Heard the learned counsel appearing for the appellant and perused the materials available on record.

5.From the award of the Tribunal, it is seen that the manner of the accident is not disputed. It is also not in dispute that the case is registered against the driver of the Maruthi van. Though the appellant-Insurance Company contended that the insurance policy was not in force on the date of accident, they have not let in any oral and documentary evidence before the Tribunal to substantiate their contention that insurance policy came into effect only on 09.12.1999. The Tribunal considering the evidence of P.W.1 and Ex.P1-F.I.R., held that the accident occurred only due to rash and negligent driving by the 2nd respondent-driver of the Maruthi van belonging to the 3rd respondent and the appellant is liable to pay compensation. There is no error in the said finding of the Tribunal warranting interference by this Court.

6.In the result, this Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is hereby confirmed. The appellant-Insurance Company as well as respondents 2 and 3 are directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent-claimant is permitted to withdraw the entire amount awarded by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

kj

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

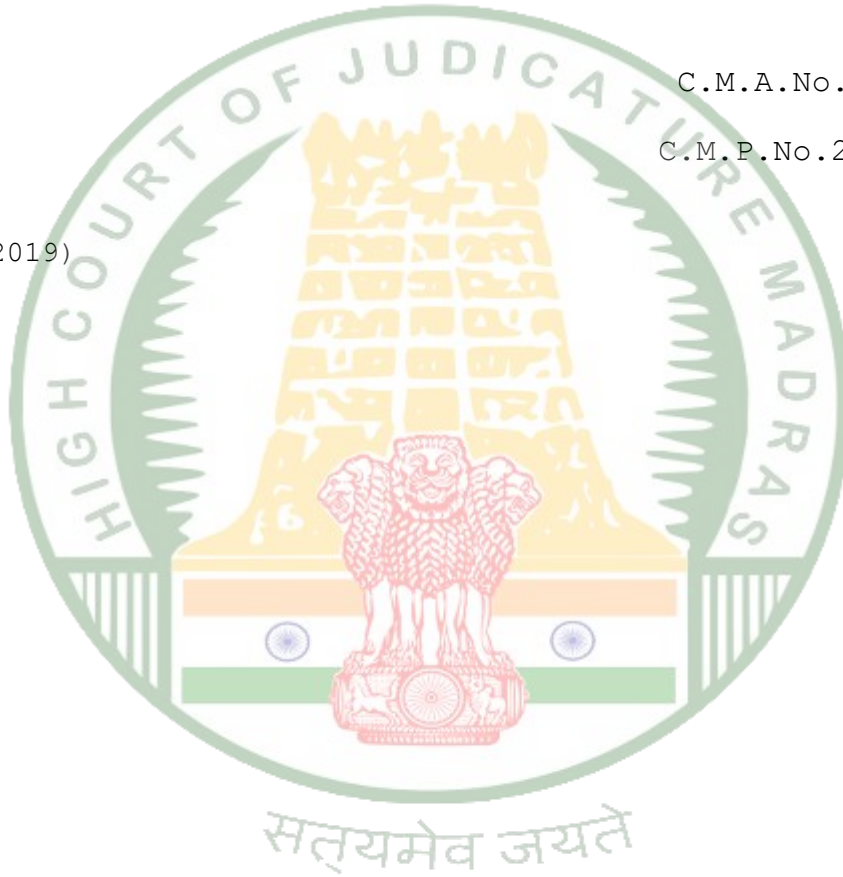
To

1.The Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court No.I
Erode.

2.The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.906 of 2019
and
C.M.P.No.2511 of 2019

Kak(21/10/2019)



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