

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2393 of 2019

S.John .. Appellant/1st Respondent

Vs.

1.S.Chakravarthi ... 1st Respondent/Claimant

2.The Branch Manager,
Untied India Insurance Company Limited-11-A,
M.C.Road, Ambur Taluk,
Vellore District. ... 2nd Respondent/2nd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.07.2013 made in M.C.O.P.No.1123 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellant : Mr.K.Varadha Kamaraj

For R1 : Mr.Mukund R.Pandian

For R2 : Mr.T.Ravichandran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 30.07.2013 made in M.C.O.P.No.1123 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri.

2.The appellant is the first respondent in M.C.O.P.No.1123 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Krishnagiri. The first respondent filed the above said claim petition, claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.07.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car belonging to the appellant and directed the second respondent-Insurance Company to pay a sum of Rs.6,66,300/- as compensation to the first respondent at the first instance and recover the same from the appellant.

4.Heard the learned counsel appearing for the appellant as well as the learned counsels appearing for the respondents 1 and 2 and perused the entire materials on record.

5.The appellant, the owner of the vehicle has come out with the present appeal challenging the portion of the award ordering pay and recovery.

6.The learned counsel appearing for the appellant contended that the claimant has furnished the name and address of the driver of the offending vehicle and details of the driving license of the driver. The Tribunal even after noticing the said fact erroneously ordered pay and recovery on the ground that the first respondent has not produced the driving license before the Tribunal. The learned counsel for the appellant further contended that the second respondent-Insurance Company has not issued any notice to the appellant or driver of the vehicle to produce the driving license or no steps were taken to summon the official from the Regional Transport Office with regard to driving license. The said contentions have considerable force. The learned counsel for the appellant has rightly referred to Column 16 (A) of the claim petition, wherein the details of the driving license of the driver were furnished. The second respondent-Insurance Company has not taken any steps to prove that the driver of the offending vehicle did not possess driving license on the date of accident. The Tribunal without properly appreciating the above facts, ordered pay and recovery. Considering all the materials in its entirety, the portion of the award passed by the Tribunal ordering pay and recovery alone is set aside. The second respondent-Insurance Company is directed to pay the compensation to the first respondent/claimant.

7.In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.6,66,300/- together with interest and costs is hereby confirmed. The second respondent-Insurance Company is directed to deposit the award amount of Rs.6,66,300/- as compensation to the first respondent/claimant, 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 first respondent is permitted to withdraw the award amount along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

krk

To

1. The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

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

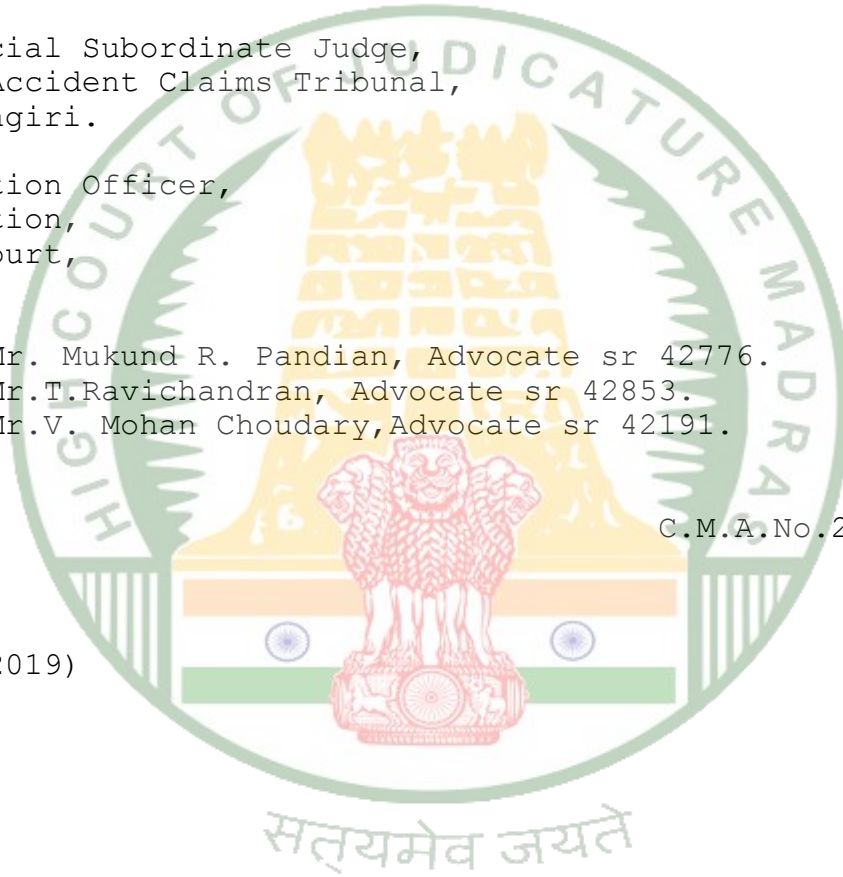
+1 CC to Mr. Mukund R. Pandian, Advocate sr 42776.

+1 CC to Mr. T. Ravichandran, Advocate sr 42853.

+1 CC to Mr. V. Mohan Choudary, Advocate sr 42191.

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VBA (CO)
SP (25/10/2019)



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