

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2717 of 2019

Sivakumar

..Appellant/Petitioner

Vs.

1.Shanmugasundaram

2.United india Insurance Company Limited

1st floor, 146N, Kumar Complex,

West Car Street, Tiruchengode Taluk,

Namakkal District.

..Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against decree and judgment in M.C.O.P.No.99 of 2015 dated 08.01.2019 on the file of the Motor Accident Claims Tribunal, Subordinate Judge Court, Tiruchengode.

For Appellant : Mr.C.Paraneedharan

For Respondents : Mr.J.Chandran for R2

R1 - Ex parte before Tribunal

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the judgment and decree made in M.C.O.P.No.99 of 2015 dated 08.01.2019 on the file of the Motor Accident Claims Tribunal, Subordinate Judge Court, Tiruchengode. The claimant is the appellant herein, who has preferred the appeal for enhancement of compensation awarded by the Tribunal.

2. The brief case leading to the claim petition is that on 03.10.2014, at about 7.00 p.m., when the appellant/claimant was a pillion rider of the two wheeler bearing Registration No. TN 30 AZ 1926, the rider of the said two wheeler while proceeding in the Tiruchengode - Vellore road, near Karattupalayam bus stop, from south to north direction, in a rash and negligent manner, a bus also was proceeding in the same

direction, at that time, a Mini Ashok Leyland lorry without Registration Number came in the same direction and hit the two wheeler. Immediately after the accident, the driver of the said lorry ran away from the accident spot. Due to the impact of the accident, the appellant/claimant sustained severe injuries and immediately he was taken to Government Hospital, Tiruchengode for first aid and he was admitted in Krishna Hospital, Tiruchengode as in patient for further treatment and a criminal case in Crime No.560 of 2014 was also registered against the driver of the Mini Ashok Leyland lorry by the Tiruchengode Police Station. The claimant claimed a sum of Rs.15,00,000/- from the owner of the said vehicle/first respondent herein as well as the insurer of the offending vehicle, viz., the second respondent.

3.The second respondent/ Insurance Company in the counter statement denied the mode of the accident as stated by the claimant and also denied the rash and negligence driving of the driver of the Mini Ashok Leyland lorry without bearing Registration Number. Apart from that, the sum claimed by the appellant/claimant under various heads are highly excessive.

4.The Tribunal after analysing the evidence and document, especially after verifying and examining RW.1 and RW.3 has given a finding that the accident occurred only due to the rash and negligent driving of the said lorry driver and did not occur due to the riding of the rider of the said two wheeler. Therefore, the Tribunal held that the second respondent/ Insurance Company is not liable to pay the compensation to the claimant and dismissed the claim petition. Aggrieved against the said dismissal order, the appellant/claimant has preferred this appeal.

5. On perusal of records, it is seen that the Tribunal has clearly analysed the evidence and documents and concluded that the respondents are not liable to pay any compensation as claimed by the claimant.

6.Further, the Tribunal has very much considered the evidence of RW.1, wherein, he has been deposed that the said final report came to be filed as 'not found the offending vehicle' only due to the non-mentioning of Registration number of the said lorry by the claimant. Further, there is also no negligence on the part of the rider of the said two wheeler and hence, the claim made against the first and second respondents was dismissed and held they are not liable to pay any compensation to the appellant / claimant.

7.In view of the above discussions, this Court finds no error in the order passed by the Tribunal, hence, the order of the Tribunal is confirmed. The Civil Miscellaneous appeal is dismissed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

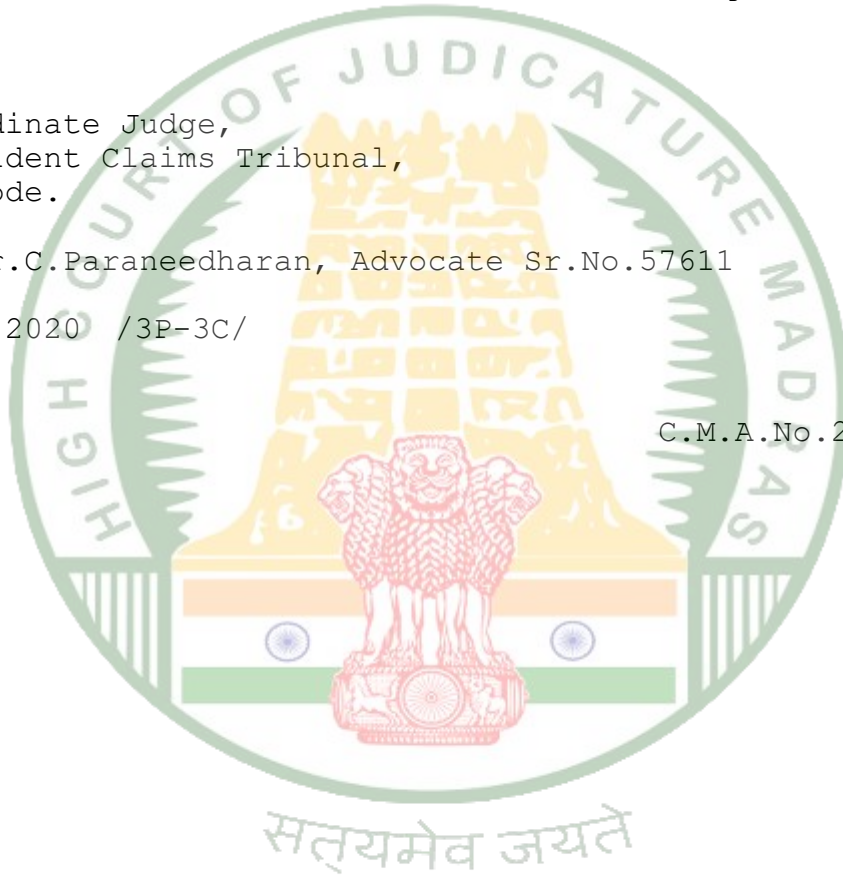
To:

The Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruchengode.

+1cc to Mr.C.Paraneedharan, Advocate Sr.No.57611

AKM/02.03.2020 /3P-3C/

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