

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3264 of 2010

(Through Video Conferencing)

S.Dhavamani ...Appellant/Claimant

vs.

1.K.Thirumal Singh
2.The Branch Manager,
The New India Assurance Company Ltd.,
Thiruvannamalai & District

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.74 of 2009 dated 23.09.2010 on the file of the Motor Accident Claims Tribunal (Sub Court)Tiruvarur.

For Appellant : Mr.Thamizhavel

For 1st respondent : No Appearance

For 2nd respondent : Mr.M.Krishnamoorthy

J U D G M E N T

Heard the learned counsel for the appellant and the 2nd respondent Insurance Company.

2. The claimant is the appellant in this appeal. The appellant is aggrieved by the impugned Judgment and decree dated 23.09.2010 passed by the Motor Accident Claims Tribunal, (Sub Court) Tiruvarur in M.C.O.P.No.74 of 2009. In this appeal, the appellant has restricted the compensation to Rs.2,00,000/- though before the Tribunal, the appellant had claimed a sum of Rs.5,00,000/-.

3. In the impugned Judgment and decree, the Tribunal has rejected the claim petition filed by the appellant solely on the ground that there was an overwriting of the registration number of the insured vehicle in Ex.P.1-FIR and Ex.P.4 - Motor Vehicle Inspector's Report,.

4. The Tribunal has summarily rejected the claim petition on the ground that the registration number of the insured lorry has been altered in Ex.P.1- FIR and Ex.P.4 - Motor Vehicle Inspector's Report. It is noticed that invariably the insurance company also investigate the case independently and file a report before the Tribunal.

5. Though there is an over writing of the registration number of the insured lorry in these two documents, the Tribunal ought to have allowed the appellant to summon the concerned police officer and the Motor Vehicle Inspector who generated these two documents to give correct details. Therefore, this is a fit case for being remitted back to the Tribunal for giving appellant an opportunity to let in evidence by summoning these two officers. In case, the appellant is able to produce them and the overwriting of the vehicle number in these two documents are properly explained, the Tribunal may give to an independent conclusion and pass its award.

6. In the light of the above observation, the impugned Judgment and decree passed by the Tribunal is to be set aside and the case is remitted back to the Tribunal.

7. The learned Subordinate Judge, Tiruvarur is directed to pass appropriate orders on merits and in accordance with law after ordering fresh notice on the appellant and the 2nd respondent-insurance company. The Tribunal shall endeavour to complete the proceedings within a period of one year from the date of receipt of a copy of this order.

8. The Civil Miscellaneous Appeal stands disposed by way of remand with the above observations. No costs.

9. In the result, this civil miscellaneous appeal is allowed by way of remand. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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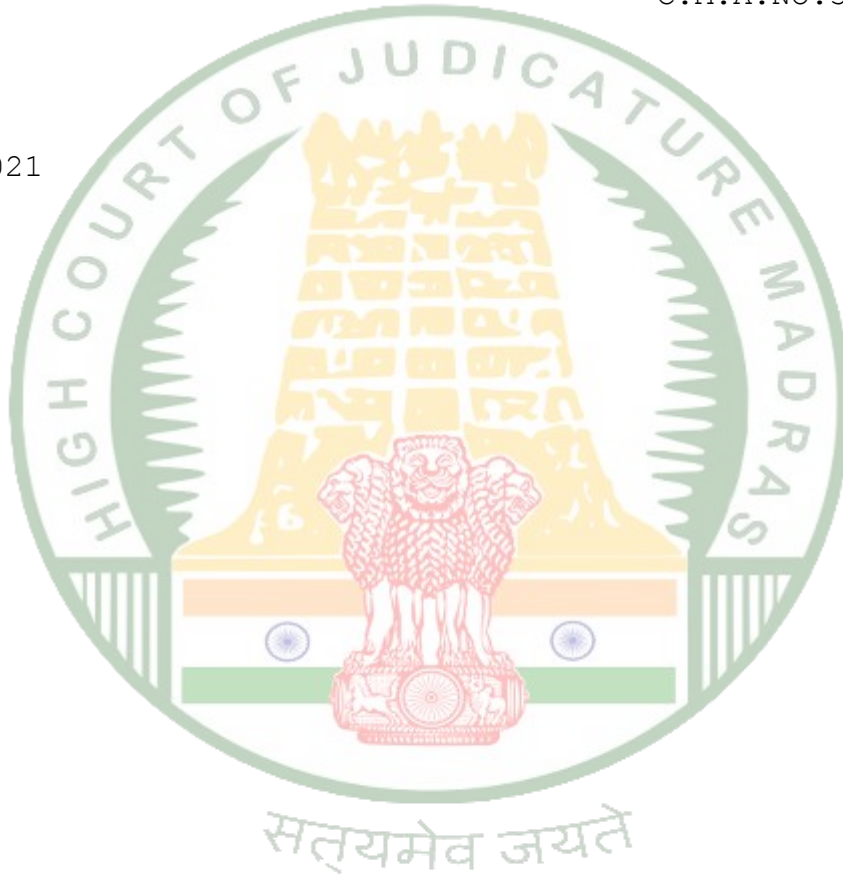
1.The Motor Accident Claims Tribunal
(Sub Court)Tiruvarur.

2.The Section Officer
VR Section
High Court, Madras

+1 cc to Mr.M.Thamizhavel Advocate sr28531

C.M.A.No.3264 of 2010

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