

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3395 of 2009

and

M.P.No.1 of 2009

(Through Video Conferencing)

The Divisional Manager,
The New India Assurance Co. Ltd.,
Motor Third Party Claims Office,
No.69, 70, Sheikpet Nadu Street,
Kancheepuram - 2.

... Appellant/
2nd Respondent

Vs.

1.M.Bharath Singh

...1st Respondent/
Claimant

2.S.Veerasamy

...2nd Respondent/
1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 12.08.2008 made in M.A.C.T.O.P.No.244 of 2006 on the file of the Motor Accidents Claims Tribunal (Fast Track Court No.2, Additional District Judge), Kancheepuram.

For Appellant : Mr.M.Krishnamoorthy

For R1 : Mr.M.Sivakumar

For R2 : No appearance

J U D G M E N T

With the consent of the learned counsel for the appellant and the learned counsel for the 1st respondent, this Civil Miscellaneous Appeal is taken for hearing and is disposed by this Judgment. The 2nd respondent has remained ex-parte.

2.The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 12.08.2008 passed by the Motor Accidents Claims Tribunal (Fast Track Court No.2, Additional District Judge), Kancheepuram.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,00,000/- as compensation together with interest at 7.5% per annum from the date of the claim petition till the date of deposit, to the 1st respondent/claimant. Aggrieved by the same, the appellant Insurance Company has been filed this Civil Miscellaneous Appeal.

4. It is noticed that the 1st respondent/claimant had filed a claim petition under Section 166 of Motor Vehicles Act, 1988. In the said claim petition, the 1st respondent/claimant had claimed a compensation of Rs.2,50,000/- as against the damages of his shop, which was hit by the lorry bearing registration TN 21 U 6035 insured with the appellant driven by the 2nd respondent in a rash and negligent manner. After considering the evidence on record, the Tribunal has awarded the aforesaid amount of compensation. Therefore, this Civil Miscellaneous Appeal was filed by the appellant Insurance Company.

5. It is submitted by the learned counsel for the appellant that the while awarding the aforesaid amount of compensation, the Tribunal erred in ignoring the statutory restrictions contained in Sub-Clause 2 of the Section 147 of the Motor Vehicles Act, 1988. As per the Sub-Clause 2 of the Section 147 of the Motor Vehicles Act, 1988, in respect of damages to any property of a third party caused by an insured vehicle, the compensation that is required to be paid is only a sum of Rs.6,000/- as compensation.

6. The learned counsel for the appellant has also filed a copy of the policy, as per which, the risk of the appellant Insurance Company is restricted to Rs.6,000/- only. Since this aspect has not been examined by the Tribunal, I am of the view that the impugned Judgment and Decree passed by the Tribunal is liable to be set aside accordingly and is hereby set aside and the case is remitted back to the Tribunal to consider afresh and pass a fresh order, within a period of six months from the date of receipt of a copy of this Judgment after hearing the parties.

7. The 1st respondent/claimant is directed to co-operate with the said proceedings before the Tribunal. The appellant Insurance Company may move appropriate application for marking the copy of the policy was produced for inspection before this Court.

8. Accordingly, this Civil Miscellaneous Appeal stands disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jen

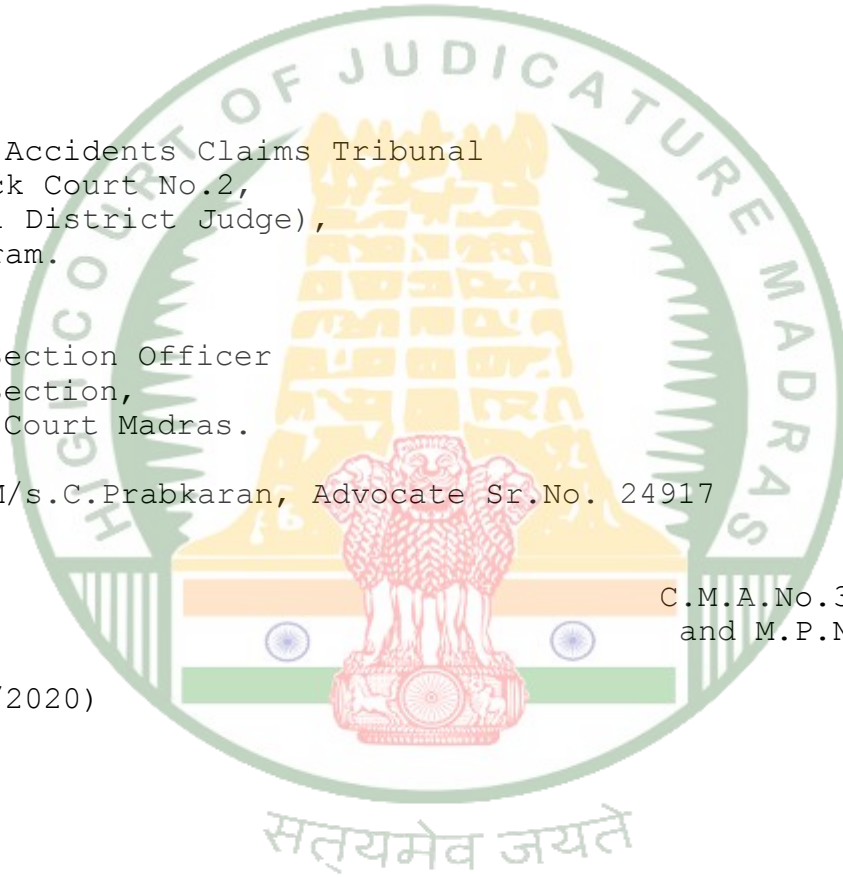
To:
The Motor Accidents Claims Tribunal
(Fast Track Court No.2,
Additional District Judge),
Kancheepuram.

Copy To:
The Section Officer
V R Section,
High Court Madras.

+1 cc to M/s.C.Prabakaran, Advocate Sr.No. 24917

C.M.A.No.3395 of 2009
and M.P.No.1 of 2009

NR(CO)
RMP(19/11/2020)



WEB COPY