

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2489 of 2012

and

M.P.No.1 of 2012

The National Insurance Co. Ltd.,  
No.165, Nethaji Road, Manjakuppam,  
Cuddalore.

...Appellant/2<sup>nd</sup> Respondent

..Vs..

1.M.Shek Abdullah  
2.J.Abdul Hammed

.. 1<sup>st</sup> Respondent/Petitioner

.. 2<sup>nd</sup> Respondent/1<sup>st</sup> Respondent

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the awards and decrees dated 23.03.2006 made in O.P.No.202 of 2005 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Cuddalore.

For Appellant : Mr.D.Bhaskaran

For Respondents: not ready in notice

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the insurance company challenging the award dated 23.03.2006 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Cuddalore) in MCOP.No.202 of 2005. सत्यमेव जयते

2. The first respondent sustained injuries as a result of an accident caused by a vehicle owned by the second respondent and insured with the Appellant.

3. The Tribunal under the impugned award directed the Appellant insurance company to pay the first respondent a sum of Rs.53,000/- as compensation together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation for the injuries sustained by the first respondent as a result of the accident. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

| Sl. No. | Heads                              | Amount   |
|---------|------------------------------------|----------|
| 1       | Pain & Suffering                   | 10,000/- |
| 2       | 10% permanent disability           | 20,000/- |
| 3       | Treatment for permanent disability | 20,000/- |
| 4       | Loss of Income                     | 3,000/-  |
|         | Total                              | 53,000/- |

4. The Appellant has challenged the said award both on the ground of its liability to pay the said compensation and they have also challenged the quantum of compensation assessed by the Tribunal.

5. Heard Mr.D.Bhaskaran, learned counsel for the Appellant. Since this court is going to confirm the award, notice to the respondents in both the appeals is dispensed.

6. Before the Tribunal, the Appellant has not let in any oral and documentary evidence to disprove the contention of the first respondent/claimant that only due to the rash and negligent driving by the driver of the insured vehicle, the accident had happened. The Appellant insurance company has also not been able to establish before the Tribunal as seen from the evidence and materials available on record that the first respondent was an unauthorised passenger in the insured vehicle. The Tribunal has rightly considered the evidence available on record and only thereafter has come to the conclusion that the Appellant insurance company is liable to compensate the claimant.

7. Insofar as the quantum of compensation awarded by the Tribunal is concerned, the compensation amount is only Rs.53,000/-. The accident happened on 02.07.2004. As seen from the compensation awarded under various heads by the Tribunal, the same is a just compensation.

8. For the foregoing reasons, both the contentions raised by the Appellant in this Appeal does not deserve any merit. Accordingly, this Appeal is dismissed. The Appellant insurance company is directed to deposit the award amount after deducting the amount already deposited, if any, together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal to the credit of MCOP.No.202 of 2005 within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the first

respondent is permitted to withdraw the award amount along with accrued interest lying to the credit of MCOP.No.202 of 2005 by filing an appropriate application. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

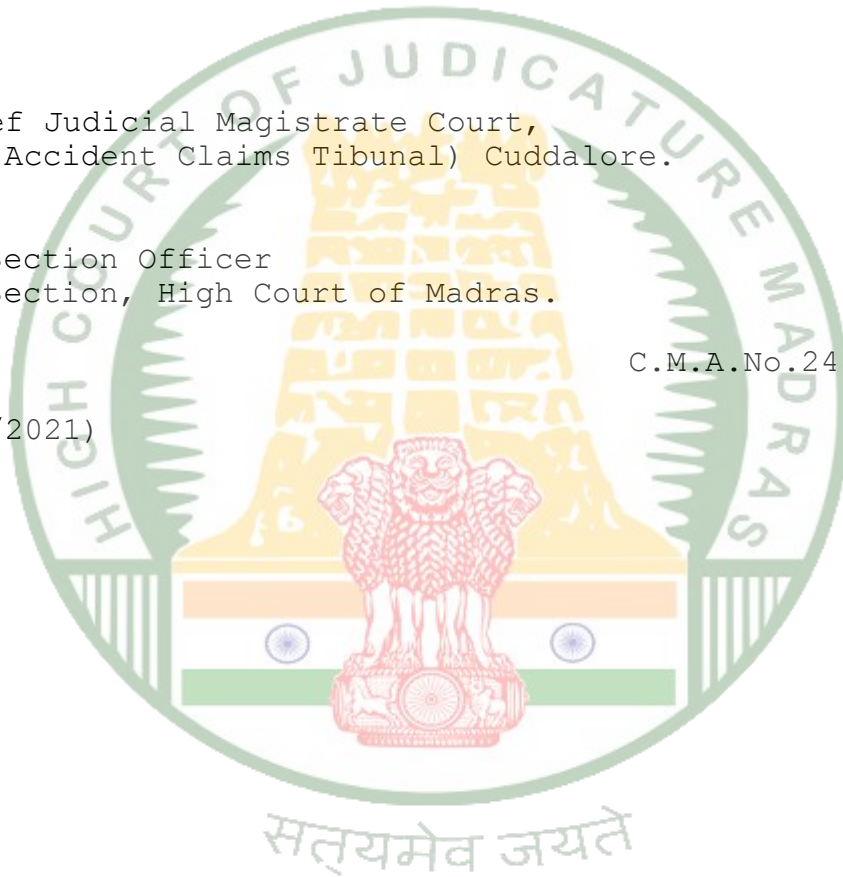
1.The Chief Judicial Magistrate Court,  
(Motor Accident Claims Tribunal) Cuddalore.

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The Section Officer  
V.R.Section, High Court of Madras.

C.M.A.No.2489 of 2012

BS (CO)  
RMP (29/03/2021)



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