

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.885 of 2011

and

MP No.1 of 2011

National Insurance Company Ltd.,
Branch Office - 2,
Erode. ...Appellant/2nd Respondent

versus

1. Elango ...1st Respondent/Petitioner

2. K.Rajee ... 2nd Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 21.07.2010 made in O.P. No.164 of 2006 on the file of the Motor Accidents Claims Tribunal (Sub-Court), Sankari.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.R.Marudhachalamurthy for R1
R2 - Insufficient Address

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 21.07.2010 passed by the Motor Accidents Claims Tribunal, Sub Court, Sankari in MCOP No.164 of 2006.

2. The Appellant / Insurance Company has challenged the impugned award on the ground that they are not liable to compensate the claimant, who according to them was a gratuitous passenger in the insured vehicle. In this appeal, they have not challenged the quantum of compensation awarded by the Tribunal to the claimant under the impugned award. Hence, the findings as regards the quantum of compensation assessed by the Tribunal has now become final.

3. It is a case of the claimant/first respondent, as seen from his claim petition filed before the Tribunal that he hired the insured Mini Door Auto system for the purpose of purchasing a recording set for his sound system business.

4. Heard Mr.D.Bhaskaran, learned counsel for the appellant and Mr.R.Marudhachalamurthy, learned counsel for the first respondent.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. Before the Tribunal, the first respondent has filed 12 documents, which were marked as Exs.P1 to P12 and two witnesses were examined, viz., the first respondent himself as PW1 and the Doctor who examined him as PW2. On the side of the Appellant / Insurance Company, one document was marked as Ex.R1 viz., copy of insurance policy and two witnesses were examined, viz., Assistant Manager of the Appellant / Insurance Company as RW1 and the Junior Assistant of the Perundurai Regional Transport Office.

7. As seen from the evidence available on record before the Tribunal, it has been the consistent stand of the first respondent / claimant that he was not a gratuitous passenger and that he has paid the hire charges to the owner of the insured vehicle for the purpose of carrying his equipments. No contra evidence has been produced by the Appellant / Insurance Company to disprove the contention of the first respondent / claimant. The Tribunal has considered the entire evidence available on record and only thereafter has come to the right conclusion that the first respondent/claimant is not a gratuitous passenger that the Appellant / Insurance Company is liable to pay the compensation.

8. Insofar as the injuries sustained by the first respondent / claimant and the quantum of compensation assessed by the Tribunal are concerned, since the findings of the Tribunal with regard to the same having now become final in view of the non challenge of the said findings, it has now become unnecessary for this Court to give its opinion as to the said findings. Therefore, the Appellant / Insurance Company is liable to pay the first respondent / claimant the quantum of compensation assessed by the Tribunal.

9. For the foregoing reasons, this Court is of the view that there is absolutely no merit in this appeal and the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.164 of 2006, on the file of the Motor Accidents Claims Tribunal, (Sub Court, Sankari), within a period of four weeks from the

date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

vsi2

To

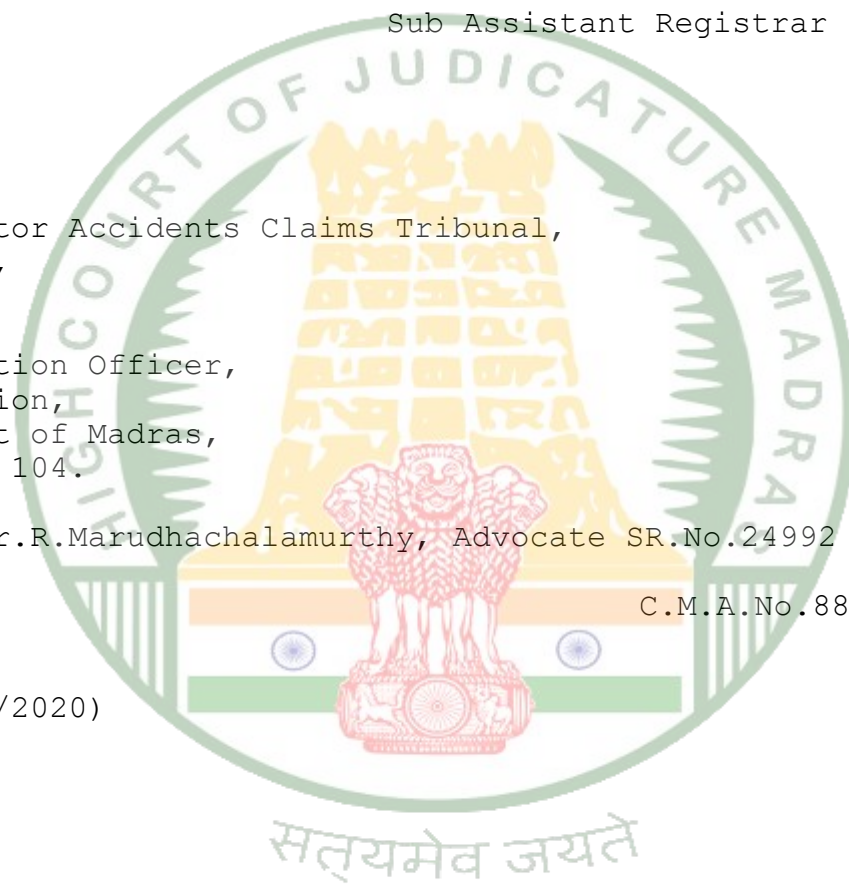
1. The Motor Accidents Claims Tribunal,
Sub Court,
Sankari.

2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 104.

+1cc to Mr.R.Marudhachalamurthy, Advocate SR.No.24992

C.M.A.No.885 of 2011

NRL (CO)
GMY (03/09/2020)



WEB COPY