

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED.24.08.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2393 of 2014 &
M.P.No.1 of 2014

The Branch Manager,
The Oriental Insurance Co., Ltd.,
The Branch Office,
No.25-C, Arunagiri Complex,
III Floor, Bye Pass Road,
Hosur - 635 109.

... Appellant/3rd Respondent

vs.

1.Oomaiyan @ Thirupathi

2.D.Thirupathi

3.S.Narayanan ...Respondents/ Petitioner / Respondents1&2
(Respondents 2 & 3 exparte in
Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the Judgment and decree in
MCOP.No.574 of 2009 dated 15.07.2013 on the file of the Motor
Accident Claims Tribunal, Additional Special Court, Krishnagiri.

For Appellant : Mr.E.Rajadurai
for Mr.N.Vijayaraghavan

For Respondents : Not ready in notice for R1
R2 & R3 - exparte

JUDGMENT

[This Appeal has been taken up for hearing through Video
Conferencing]

This appeal has been filed by the Appellant Insurance
company challenging the award dated 15.07.2013 passed by the
Motor Accident Claims Tribunal (Additional Sub Court,
Krishnagiri) in MCOP.No.574 of 2009.

2. Heard Mr.E.Rajadurai, learned counsel representing
Mr.N.Vijayaraghavan, learned counsel for the Appellant.

3. The Insurance Company has not challenged the quantum of compensation awarded by the Tribunal under the impugned award but have only challenged its liability to pay compensation. According to them, the two wheeler bearing Registration No. TN29-R-2797 insured with them was not involved in the accident. According to them, FIR has also been registered only against an unknown vehicle and hence, they are not liable to compensate the claim of the claimant.

4. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award amount (Rs.)
Future loss of earning	3,67,200/-
Pain and Suffering	20,000/-
Nutrition, transport and attender	15,000/-
Future treatment	10,000/-
Total	4,12,200/-

5. Before the Tribunal, the first respondent/claimant has filed ten documents which were marked as Ex.P1 to Ex.P10 and three witnesses were examined on his side namely the claimant himself as PW1, the Doctor who examined him as PW2 and an eyewitness to the accident as PW3. On the side of the Appellant Insurance company neither any document was filed nor any witness examined before the Tribunal.

6. Before the Tribunal, eventhough charge sheet has not been filed, MVI report has been marked as Ex.P7 which reveals that Motor cycle insured with the Appellant was involved in the accident. This being the case, based on preponderance of probability, the Tribunal has rightly held the Appellant insurance company liable to compensate the claim of the first respondent, since no contra evidence has been produced by them. The first respondent/claimant has discharged his initial burden of proving the claim which has not been disproved before the Tribunal as seen from the evidence available on record.

7. This Court does not find any infirmity in the findings of the Tribunal. Accordingly, there is no merit in this Appeal and the Appeal is dismissed. The Appellant insurance company is directed to deposit the award amount along with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited if

any to the credit of MCOP.No.574 of 2009 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 award amount along with accrued interest lying to the credit of MCOP.No.574 of 2009 to the bank account of the first respondent/claimant within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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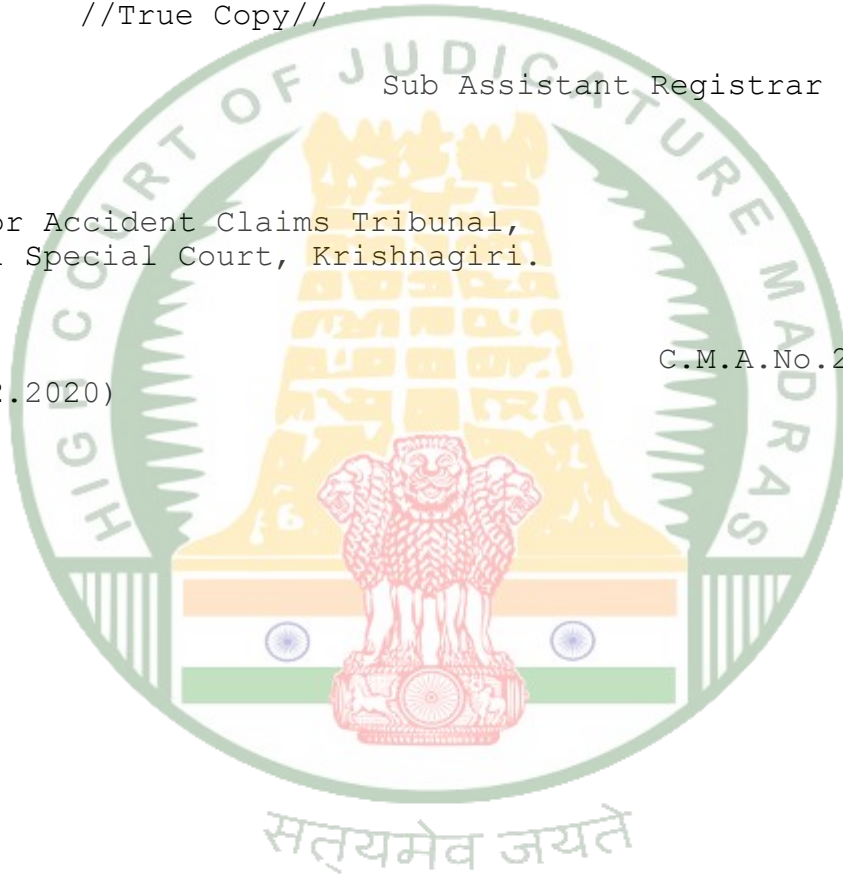
Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Additional Special Court, Krishnagiri.

A.SK(29.12.2020)

C.M.A.No.2393 of 2014



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