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CMA.No.2571 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.2571 of 2005
CMP.No.13472 of 2005

New India Assurance Company Limited
Arni

Appellant

Vs

1. R.Shanmugam
2. S.Imthiyas

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 29.10.2004, made in MCOP.No.407 of 2001, by the Subordinate Court (MACT) Cheyyar.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.V.R.Appaswamee-R1
No Appearance-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the New India Assurance Company Limited, against the judgement and decree, dated, 29.10.2004, made in MCOP.No.407 of 2001, by the Subordinate Court (MACT) Cheyyar.
2. This Court heard the learned counsel on either side and considered their submissions and also the entire materials placed on record.
3. On 27.04.2001 at about 12.30 p.m., when the claimant along with others, who are the injured claimants in a batch of other Civil Miscellaneous



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Appeals, in CMA.No.2354 of 2005, etc., were returning in a TATA van bearing Registration No.TN-31-A-3533, after attending a marriage function, on the Kanchipuram-Vandavasi Road, between Dusi and Maamandoor, the driver of the said van drove the same in a rash and negligent manner and hit against the tree on the left side of the road, due to which, all the persons including the claimant herein and the driver of the van have sustained injuries. A criminal case was registered against the driver of the van in the Dusi Police Station for his rash and negligence driving. The claimant has filed the above claim petition before the tribunal, claiming compensation for the injuries sustained by him. Each of the other injured persons have also filed separate claim petitions. By the impugned judgement, the Tribunal, while awarding compensation to the claimant, has ordered for pay and recovery. Hence, the Appellant Insurance Company has filed this appeal.

4. In respect of the very same accident and the other injured claimants, this Court, by a common judgement , dated 20.09.2018 in a batch of other Civil Miscellaneous Appeals in CMA.No.2354 of 2005, etc., filed by the Appellant Insurance Company, following the judgement of the Honourable Supreme Court reported in **2008 1 MAC 348 SC (National Insurance Company Limited Vs. Prema Devi)**, has exonerated the Appellant Insurance Company from its liability and made the 2nd Respondent herein / owner of the offending vehicle liable to pay the award amount.
5. Following the said judgement dated 20.09.2018 made in CMA.No.2354 of 2005, batch etc. this Civil Miscellaneous Appeal is allowed, directing the 2nd



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Respondent / owner of the offending vehicle to deposit the award amount awarded by the Tribunal, with interest and costs, before the Tribunal, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the bank account of the claimant herein through RTGS within one week thereafter. The Appellant/Insurance Company is permitted to withdraw the amount deposited, if any. No costs. Consequently, the connected Miscellaneous Petitions is closed.

12.04.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The the Subordinate Court (MACT) Cheyyar
2. The Record Keeper, VR Section, High Court, Madras



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A.A.NAKKIRAN, J.

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