

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CMA.No.1266 of 2003

Mrs.Chinnakannu

... Appellant/Petitioner

Vs.

1.V.Murugesan

2.The Oriental Insurance Company Ltd.,

Katpadi Road,

Vellore, NAA District.

...Respondents/Respondent

PRAYER : Petition filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 21.10.2002 made in MCOP.No.192 of 1994 on the file of the Motor Accident Claims Tribunal, (Sub Judge), Thirupattur, Vellore District.

For appellant : Mr.N.Nallappan

For respondents : R1 Batta due

R2 served. No appearance.

JUDGMENT

The Civil Miscellaneous Appeal is filed against the order dated 21.10.2002 made in MCOP.No.192 of 1994 on the file of the Motor Accident Claims Tribunal, (Sub Judge) Tirupattur, Vellore District.

2.The claim petition is filed before the Sub Court, Tirupattur, Vellore, the trial Court after hearing the arguments of both sides and after perusing the evidence and documents adduced on either side finally awarded a sum of Rs.20,700/- together with 9% interest from the date of application till the date of deposit. The learned counsel for the appellant mainly contended that the trial Court without considering the report of the Motor Vehicle Inspector/Ex.P3, awarded the said claim and directed the first respondent to pay the amount and dismissed the claim against the second respondent. Being not satisfied with the award passed by the Tribunal, the appellant filed the present appeal.

3.The learned Tribunal without considering the report of the Motor Vehicle Inspector/Ex.P3 categorically stated that the lorry was insured with the second respondent till 06.04.1994, without considering the above fact, the trial judge dismissed the claim against the second respondent hence, the order of the Tribunal has to be set aside and prays to allow the appeal.

4.Heard the learned counsel for the appellant and even though the name of the second respondent/insurance company is printed in the cause list, even though there is no representation on behalf of the second respondent. This Court perused the materials produced on either side before the trial Court.

5.According to the learned counsel for the appellant, the vehicle was insured with second respondent/insurance company at the time of accident. The appellant's mainly relied on the report of the Motor Vehicle Inspector/Ex.P3, it is further stated that the vehicle was insured with second respondent/insurance company and the date of expiry of the policy is 06.04.1994. The petitioner has not taken any steps to adduce oral and documentary evidence to prove the fact that the vehicle was insured with the second respondent/insurance company. On the side of the second respondent before the trial Court, it is clearly stated that the vehicle was not insured with the second respondent/insurance company, but the appellant has not taken any steps to prove the same by adducing oral and documentary evidence.

6.The trial Court after considering the entire facts and circumstances, directed the first respondent to pay the compensation of Rs.20,700/- to the claimant along with 9% interest from the date of petition and dismissed the claim against the second respondent. This Court finds there is no illegality, infirmity or perversity in the award passed by the Tribunal, and the judgment and decree passed by the Tribunal does not warrant any interference by this Court.

7. In the result, the civil miscellaneous appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

tsh

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
(Sub Judge), Thirupattur,
Vellore District.

GMI (CO)
RS (21/02/2017)

CMA.No.1266 of 2003.



WEB COPY