

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.661 of 2009

The Oriental Insurance Co. Ltd.,
8, Esplanade,
Chennai - 600 108. .. Appellant

Vs.

1.B.V.Ramu
2.C.Mariammal .. Respondents

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed by the Motor Accident Claims Tribunal, Chennai (VI Court of Small Causes, Chennai) in MCOP.No.1286 of 2003 dated 26.06.2006.

For Appellant : Mr.M. Rajasekar
For Respondents : Mr.P.Ramanathan [for R1]

JUDGMENT

The Insurance Company which is arrayed as second respondent in MCOP.No.1286 of 2003 on the file of the VI Small Causes Court, Chennai, has come forward with this appeal, challenging the award passed by the Tribunal in a case where the claimant has suffered injuries in a road accident.

2. The brief sketch of the facts that are relevant for the current purpose is that on 09.12.2002 at about 3.45 p.m., the claimant, a pedestrian on the road, was alleged to have been hit by a FIAT Car bearing No.TN04-H-1050 belonging to the first respondent. For the injuries suffered, the claimant has preferred a claim for Rs.2,00,000/- before the Tribunal, against which an award for Rs.72,000/- was passed.

3.The learned counsel for the appellant raised essentially one point, but emphasised a great deal of significance to it. The nature of facts as made available indicate a possibility that the alleged FIAT Car might not have been involved in the accident and that the claimant might be barking up the wrong tree. He brought to the notice of the Court two facts that are borne out by the evidence available on record : (a) Soon after the accident, the claimant was admitted in a private hospital, where in the admission slip, it appears to have given the make of the car that hit him as

"Maruti" whereas the vehicle involved in this case is a FIAT car. (b) For an accident that is said to have taken place on 09.12.2002, FIR was registered only on 07.01.2003. PW.1, the claimant would justify that he had preferred a complaint, suprisingly not to the jurisdictional police station, but to the Commissioner of Police and the FIR was stated to have been registered based on this complaint. This too was registered only on 07.01.2003 and PW.4, the constable who registered the FIR has deposed that it was so registered on receipt of a complaint forwarded by the Commissioner of Police. This complaint has not seen the light of the day till date. Therefore, there is a greater probability to believe that a Maruti car might have hit the complainant, but as an after thought, the FIAT car of the second respondent herein was introduced for the purpose of filing the claim petition.

4. Per contra, the learned counsel for the respondent submitted that registering an FIR is not mandatory for seeking a claim before the Tribunal, and it must be realistically appreciated that any person injured in a road accident may not always believe in registering an FIR first but would prefer to attend to his injury and if so viewed the occasioned delay is not too long.

5. In Ex.P2 FIR, only the car number is given, but not the make. However, it is for the Investigating Agency to investigate that the involvement of the offending vehicle in the case. It is not so much about the make of the car that matters, but the registration number is significant for the purpose. Any evidenciary discrepancy of an unsophisticated and inadequately intelligent litigant cannot be let to deny him his right to claim fair compensation. This Court does not find any material to interfere with the finding of the Tribunal. Consequently, this appeal is dismissed. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Motor Accident Claims Tribunal,
VI Court of Small Causes, Chennai.
2. The Section Officer, VR Section, High Court, Madras.

+1cc to M/s. M. Raja Sekhar, Advocate, S.R.No.69061

+2ccs to M/s. P. Ramanathan, Advocate, S.R.No.68569

GMI (CO)

EU 10.1.17

<https://hcservices.ecourts.gov.in/hcservices/>

C.M.A.No.661 of 2009