



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.02.2016

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)No.904 of 2015

Chellimuthu

... Appellant/Claimant

Vs.

1.Subburaj
2.K.Chellakani
3.The Branch Manager,
United India Insurance Co., Ltd.,
391-A, Tenkasi Road,
Rajapalayam - 626 117.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 22.10.2010 made in M.C.O.P.No.95 of 2007 on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Tirunelveli.

For Petitioner : Mr.Veilkaniraju

JUDGMENT

The appellant is the claimant. He filed a claim petition claiming a sum of Rs.5,00,000/- as compensation for the injury caused in the accident occurred on 03.03.2005 at 03.30 p.m. According to the appellant, the accident occurred only due to rash and negligent driving by driver of the first respondent. The vehicle, in which the appellant was driving belonged to the second respondent and insured with the third respondent. The first respondent using his influence, registered the case against the appellant as though the accident occurred due to rash and negligent driving of the appellant. Therefore, he claimed a sum of Rs.5,00,000/- as compensation for the injury sustained by him in the accident. The first respondent remained ex-parte before the Tribunal. The second respondent filed counter statement and contended that the first respondent is responsible for the accident and he alone is liable to pay compensation.

2.The third respondent filed counter statement and contended that the appellant did not possess any driving licence at the time of accident and case was registered against him for causing accident.

3. Before the Tribunal, the appellant was examined himself as P.W.1 and examined Doctor as P.W.2 and marked 11 documents as Ex.P1 to P11. The respondent examined two witnesses as D.Ws.1 & 2 and marked three documents as Ex.D1 to D3.

4. The learned Judge considering the pleadings, evidence and arguments, dismissed the claim petition. Against the said order of dismissal, the appellant has filed the present Civil Miscellaneous



Appeal.

5.The learned counsel for the appellant submitted that the learned Judge erred in dismissing the claim petition on the sole ground that the appellant did not have driving licence. This conclusion is contrary to the judgment of this Court and Hon'ble Apex Court. The learned Judge failed to see that the claim is made under Section 163(A) of Motor Vehicles Act and ought to have awarded a compensation as claimed by the appellant.

6.Heard the learned counsel appearing for the appellant.

7.From the materials on record, it is seen that the appellant did not possess driving licence at the time of accident. Further, at the time of hearing claim petition also, the appellant did not produce any driving licence. The first respondent has given complaint against the appellant stating that the accident occurred only due to the rash and negligent driving by the appellant. The appellant did not give any complaint against the first respondent. In the circumstances, the learned Judge considering all the materials and Section 163(A) of Motor Vehicles Act and judgment relied on by the counsel for the appellant, dismissed the claim petition giving valid reasons. There is no reason warranting interference by this Court to set aside the order.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CO.DEPT)I/C

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate (Motor Accident Claims Tribunal),
Tirunelveli.

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TE/SK-SKN/SAR-I : 10/03/2016 : 2P/2C

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