

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

C.M.A. No. 1231 of 2017

H. Ramakrishnan

..Appellant/Petitioner

Vs.

1. Thirukumaran

2. The New India Assurance
Company Limited,
Divisional Office,
Premier Complex,
Five Roads, Salem 16.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 31.07.2014 made in M.C.O.P. No. 251 of 2007 on the file of Motor Accidents Claims Tribunal, I Additional Subordinate Judge, Salem.

For Appellant :: Mr.K.Kuppusamy

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant, as against the quantum of compensation, to the tune of Rs. 2,40,000/-, awarded by the Tribunal, for the injuries sustained by him in the accident, which occurred on 19.11.2005, when the two wheeler driven by him was hit by a Lorry bearing Registration No. TN-28-Y-2043, said to have been insured with the 2nd respondent, which was driven rashly and negligently as well as the fastening of the liability on the 1st respondent/owner of the lorry, instead of directing the Insurance Company to pay and thereafter, recover the compensation amount from the owner.

2. Heard the learned counsel for the appellant.

3. The claim petition was filed by the appellant/claimant seeking compensation to the tune of Rs. 5,00,000/-. On contest, the Tribunal found that there was no insurance policy coverage, as on the date of the accident, i.e, on 19.11.2005, for the

lorry belonging to the 1st respondent and that the policy commenced only from 21.11.2005, as evidenced by Ex.R1. Therefore, though the Tribunal found that it was the lorry, which was driven rashly and negligently, resulting in the claimant sustaining injuries to the extent of 25% in the accident and awarded Rs.2,40,000/- as compensation, due to absence of insurance policy coverage, on the date of the accident, which, admittedly, commenced only from 21.11.2005, fastened the liability on the owner of the lorry. The award of the Tribunal in fixing the liability on the owner cannot be found fault with, as there was no insurance policy, in subsistence, on the date of the accident. Even on the question of quantum, the award of the Tribunal is justified, as the amount was arrived at, based on available materials on record. Hence, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nv

To

The I Additinal Sub Judge,
The MACT, Salem.

C.M.A. No. 1231 of 2017

GMI (CO)
Eu 3/5/17

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