

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

Civil Miscellaneous Appeal No.1273 of 2017

Kalyanasundaram

... Appellant/Petitioner

//vs//

1. Sumathi

2 . Reliance General Insurance Company Limited,
Sri Lakshmi Complex, 1st Floor,
Bharathi Street, Omalur Main Road,
Salem-7. ... Respondents/Respondents

Prayer: Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988 challenging the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1020 of 2009 on the file of Motor Accident Claims Tribunal, Special Sub Court No.1, Salem.

For Petitioner : : M/s K.Kuppusamy,
S.S.Annadorai.

O R D E R

The Appeal has been preferred by the claimant against the dismissal of his claim petition, praying for compensation for the injuries sustained by him in the accident, which occurred on 22.3.2009, when he was riding his two wheeler and having hit by Tata Ace vehicle.

2. Heard.

3 . Mr.K.Kuppusamy, learned counsel appearing for the appellant would submit that the accident has been proved by Ex.P1, First Information Report and injury sustained by the claimant has been proved by Ex.P2, Ex.X1, Ex.X2 and Ex.X3. However, the Tribunal dismissed the claim petition erroneously.

4 . A close perusal of the records would show that the claimant was under influence of Alcohol, when he was riding his two wheeler, as proved by Ex.X4, marked on the side of the 2nd respondent. Further, there is no eye witness, examined by the claimant to prove that the accident occurred because of the rash

and negligent driving of the Tata Ace vehicle. The Tribunal took note of the allegation in the First Information Report that an unknown Tata Ace auto only hit him. The Motor Vehicle Inspector also did not mention any dent or damage caused to the vehicle in his Report. Further, the second respondent produced documentary evidence to show that the accident was not caused by the first respondent. The Tribunal observed it and also found that it is a case of HIT and RUN and in view of the same, dismissed the claim petition rightly. There is no occasion arisen out for this court to interfere with the order passed by the Tribunal. The fact that the appellant driving the vehicle, after consumption of liquor itself is a violation of law and on that score also, the claim petition should have been dismissed. In any event, the appeal is devoid of merit and the same is dismissed.

5 . In the result, the Civil Miscellaneous Appeal is dismissed by confirming the judgment and decree dated 12.01.2015 made in M.C.O.P.No.1020 of 2009 on the file of Motor Accident Claims Tribunal, Special Sub Court No.1, Salem. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1 . The Special Sub Judge,
Motor Accident Claims Tribunal,
(Special Sub Court No.1),
Salem.

2. The section Officer
VR section
High Court, Madras

SKV(CO)
sp/12/5

C.M.A.1273 of 2017

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