

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.01.2017

CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.112 of 2004

Vargheese

... Appellant/Petitioner

Vs.

1. D.Subramani

2. The United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 2. ... Respondents/Respondents

Prayer:- The Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.09.2002 made in MACT O.P.No.4875 of 1998 on the file of the Motor Accident Claims Tribunal (Additional District Court cum Fast Track Court No.4), Chennai.

For Appellant : Mr.A.N.Viswanatha Rao

For Respondent 1 : Notice Dispense with

For Respondent 2 : No Appearance

JUDGMENT

This appeal is preferred by the claimant, challenging an order of the Tribunal dismissing his claim petition. In the impugned order, the Tribunal has suspected the occurrence of the very road accident that the claimant has contented.

2. According to the claimant, on 30.03.1996 at about 10.15.a.m while he was standing in L.B.Road, an auto rickshaw bearing Registration No.TN-97-B-8264 came rashly and negligently and dashed against him, owing to which, he had suffered fracture to his right radial bone.

3. In an accident that is said to have taken place on 30.03.1996, he had lodged Ext.P-2, F.I.R. on 02.06.1996. He has also produced Ext.P-1, O.P. chits, issued by Railway Hospital, Perambur and it shows that he was taken to the hospital for treatment on 12.01.1996. Interestingly enough in Ext.P-1, the doctor, who has recorded that the patient was stated to have suffered injury to his person in a road accident said to have happened on 30.03.1996.

4. The Tribunal has addressed the right questions before doubting the occurrence of very accident:

- (a) If the accident had taken place on 30.03.1996, how can a patient be taken for treatment some 2 ½ months prior to that on 12.01.1996?
- (b) If the patient was taken for treatment on 12.01.1996, how can the doctor recorded an accident to be taken some 2½ months later except perhaps through his clairvoyance. The approach of the Tribunal stands to reason and I find no material that can explain away the just suspicion of the Tribunal in doubting the accident?

5. To conclude, I find no merit in the appeal and the same is dismissed but without costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kmi

To

The Additional District Court cum Fast Track Court No.4,
Motor Accident Claims Tribunal,
Chennai.

C.M.A.No.112 of 2004

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