

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.02.2017

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THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A.No.1374 of 2003

Rajini
W/o.Devaraj

...Appellant/Petitioner

...vs...

1.A.Jayakannu

2.United India Insurance Co. Ltd.,
No.93, Big Street,
Thiruvannamalai,
T.S.District.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed against the order and decretal order dated 21.10.2002 made in M.C.O.P.No.106 of 1994 on the file of the Motor Accidents Claims Tribunal (Sub Judge), Tirupattur.

For Appellant : Mr.N.Nalliappan

For Respondents : Mr.K.Rama for R2
R1- Ex parte before the Tribunal

JUDGMENT

The claimant in MCOP No.16 of 1994 on the file of the Motor Accident Claims Tribunal (Sub Judge), Tirupattur, is the appellant.

2.According to the appellant/claimant, on 20.01.1994 at about 5.50 p.m. when she was walking on the road at Fakkirthakka, the motor cycle bearing registration No.TN-25-6016 belonging to the first respondent was driven in a rash and negligent manner and dashed against the appellant. In the impact, she sustained grievous injuries and she lost three teeth. The vehicle was insured with the second respondent/Insurance Company. She has prayed for a total compensation of Rs.50,000/-. The owner of the offending vehicle remained ex parte before the Tribunal. After considering the

oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the rider of the said vehicle and awarded compensation as detailed below:-

Pain and suffering	Rs. 10,000/-
Medical Expenses	Rs. 500/-
Permanent Disablement	Rs. 12,000/-
Total	Rs. 22,500/-

The total compensation of Rs.22,500/- amount was directed to be paid by the first respondent/owner of the vehicle, with interest at the rate of 9% per annum from the date of claim petition. The Tribunal has exonerated the second respondent from its liability to pay the compensation on the ground that there is no insurance coverage at the time of accident. Challenging the award exonerated the Insurance Company from its liability, the present appeal has been preferred.

3. The learned counsel for the appellant/claimant would submit that the Tribunal has committed an error in holding that there is no renewal of the Insurance Policy coverage on the date of accident. The non-renewal of the insurance policy was not proved by the Insurance Company and therefore, the award requires interference.

4. It is seen from the records that the accident took place on 20.01.1994 at 5.50 p.m. According to the claimant, she sustained grievous injuries in the accident only due to the rash and negligent act of the rider of the motor cycle bearing registration No.TN-23-6013. It is not in dispute that the offending vehicle belonged to the first respondent. The case has been registered against the first respondent in the criminal case in Cr.No.76 of 1994 under Sections 279 and 338 of IPC. The First Information Report and the charge sheet have been marked as Exs.P1 and P2 and the rider of the vehicle was convicted by the Criminal Court. Therefore, there is no difficulty in coming to the conclusion that the accident had occurred only due to the rash and negligent riding of the rider of the offending vehicle.

5. The owner of the offending vehicle was remained ex parte before the Tribunal. On the side of the appellant, four documents have been marked. On behalf of the second respondent/Insurance Company, RW1-Assistant Administrative Officer of the Insurance Company, was examined and four documents were marked as Exs.R1 to R4, to substantiate their plea that the offending vehicle has no insurance coverage at the time of accident. Ex.R1 is the copy of the Insurance

Policy and the insurance policy has not periodically renewed. It is not in dispute that the accident had occurred only on 20.01.1994. It is seen from the evience of RW1 that the offending vehicle has no insurance coverage and the insurance policy was not renewed after 23.12.1993. Thus, it is seen that there is no insurance coverage for the offending vehicle at the time of the accident.

6. Therefore, the order of the Tribunal is to be upheld and accordingly, the Civil Miscellaneous Appeal deserves dismissed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To:

- 1.The Sub Judge,
The Motor Accidents Claims Tribunal,
Tirupattur.
2. United India Insurance Co. Ltd.,
No.93, Big Street,
Thiruvannamalai
- 3.The Section Officer,VR Section,High Court,Madras

C.M.A.No.1374 of 2003

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