

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.3522 of 2006

& C.M.P.No.1 of 2006

Royal Sundaram Alliance Insurance
Co. Ltd.,
46, Whites Road,
Chennai - 600 014. Appellant/2nd Respondent

-vs-

1.Anjalai1st Respondent/Petitioner
2.R.Vijayaraghavan 2nd Respondents/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 01.09.2006 made in M.C.O.P.No.219 of 2005 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore.

For Appellant : Mr.N.Vijayaraghavan
For Respondent No.1 : Mrs.M.Shakkira Banu
For Respondent No.2 : Exparte

J U D G M E N T

The Insurance Company / second respondent in M.C.O.P.No.219 of 2005 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore, is the appellant. The first respondent before the Tribunal is the owner of the offending vehicle. The claimant has filed the above Motor Claims Original Petition claiming a compensation of Rs.5,00,000/- for the injuries sustained by her, in a motor accident.

2. In an accident that occurred on 10.09.2004 at about 7.30p.m., the first respondent / claimant sustained injuries. According to the claimant, the rider of the motor cycle bearing Registration No.PY-01-Y-1446 drove it in a rash and negligent manner and hit her, as a result of which, she sustained grievous

injuries. The first respondent is the owner of the vehicle and it was insured with the appellant / Insurance Company. She claimed a total compensation of Rs.5,00,000/-.

3. After considering the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligent act of the rider of the motor cycle owned by the second respondent and awarded total compensation of Rs.1,98,055/- with interest at the rate of 7.5% per annum.

4. The appellant / Insurance Company opposed the claim on the ground that the vehicle bearing Registration No.PY-01-Y-1446 was not involved in the accident. The Tribunal did not accept the case of the Insurance Company. The learned counsel for the claimant would submit that merely because the criminal proceedings in connection with the accident in question were closed the claim cannot be held to be false.

5. Admittedly, there is no complaint lodged by the owner of the vehicle against the involvement of the vehicle. The Insurance Company has also not filed any criminal complaint stating that it is a bogus claim. The appellant / Insurance Company has not produced any dependable evidence to reject the evidence adduced on the side of the claimant. The evidence of R.W.1 and the closure report of Ex.R.1 are not sufficient to hold that the claim is false.

6. The claimant in support of her claim, examined herself as P.W.1. She is an injured witness. P.W.3 is the rider of the offending vehicle. The Tribunal is to go by preponderance of probabilities. In connection with the accident, a criminal case was registered. Ex.P.1 is the copy of the First Information Report. Ex.P.2 is the Report of the Motor Vehicles Inspector. Ex.P.3 is the wound certificate to show that the claimant sustained injuries. Ex.P.2 would show that the two wheeler involved in the accident was insured with the appellant. The evidence of P.W.1 and P.W.3 are supported by Ex.P.1 and P.2 documentary evidence. Hence, it can be safely held that the rash and negligent driving of the driver of the said vehicle was responsible for the accident.

7. Neither side raised any dispute on quantum. As the offending vehicle was insured with the appellant at the time of the accident, the appellant is liable to pay the compensation.

8. For the reasons stated above, the Civil Miscellaneous Appeal is dismissed. The appellant-Insurance Company is directed to deposit the entire award amount of Rs.1,98,055/- with interest at the rate of 7.5% per annum and

costs, less the statutory deposit, to the credit of M.C.O.P.No.219 of 2005 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore, within six weeks from the date of receipt of a copy of this order. On such deposit, the first respondent / claimant is permitted to withdraw the same with appropriate interest, by making necessary application before the Tribunal. Consequently, the connected Civil Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri
To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Cuddalore.

+1cc to Mr.M.B. Gopalan, Advocate, S.R.No.10119

svi(CO)
md(08/03/2017)

C.M.A. No.3522 of 2006

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