



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.1431 of 2016

and

C.M.P(MD)No.11916 of 2016

The New India Assurance Company Ltd.,
Branch Office,
Kongu Complex,
34/35, Bye Pass Road,
Dharapuram.

.. Appellant/2nd Respondent

Vs.

1.Ayyappan
2.Palanichamy

... 1st Respondent/Petitioner
... 2nd Respondent/1st Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.48 of 2004, dated 30.01.2006 on the file of the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Karur.

For Appellant : Mr.D.Sivaraman

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant-Insurance Company against the award of Rs.60,000/- (Rupees Sixty Thousand only) to the 1st respondent/claimant as compensation for the injury sustained by him in the accident occurred on 01.03.2003, when he was riding his motor cycle, which was hit by the TVS Moped, insured with the appellant Insurance Company, driven rash and negligently.

2. On contest, the Tribunal found that the accident occurred because of the rash and negligent driving of the driver of the TVS Moped, insured with the appellant Insurance Company and awarded a sum of Rs.60,000/- (Rupees Sixty Thousand only). Challenging the same, the present appeal has been filed.

3. The appeal has been preferred by the Insurance Company with regard to the liability on the ground that the TVS Moped, which is stated to be offending vehicle was not involved in the accident.

4. On 01.03.2003, it is stated that when Ayyappan was riding his Hero Honda in Kovai - Karur main Road, at Palladam a TVS Moped turned right side and hit the Hero Honda Motor Cycle resulting in the accident, due to that Ayyappan sustained injuries in the right hand wrist, shoulder and forehead.



5. Though the accident occurred on 01.03.2003, the complaint was given on 05.03.2003 and the case was registered against the TVS Moped Rider. Based on that, the Insurance Company contends that the vehicle TVS Moped insured with the appellant Insurance Company was not involved in the accident and only for the purpose of the claim, it has been dragged in. However, the Tribunal taking note of the filing of the F.I.R. against the rider of the TVS Moped as per Ex.P.1 F.I.R. and Ex.P.5 Charge Sheet and more particularly pleading guilty by the rider of the TVS Moped as per Ex.P.6, the Tribunal found the accident occurred because of the rider of the TVS Moped and rejected the contention of the appellant that the TVS Moped was not involved in the accident. The Tribunal rightly relying upon the aforesaid documents and rightly found that the accident occurred involving TVS Moped and the rider of the TVS Moped is responsible for the accident. Further, though the Insurance Company has taken a plea that the rider of the TVS Moped did not possess driving licence, the Insurance Company has not taken any steps to prove the same.

6. Therefore, the Tribunal rightly awarded compensation as per law and there is no perversity and illegality in the award passed by the Tribunal. Therefore, the Civil Miscellaneous Appeal fails and the same is dismissed. The appellant-Insurance Company is directed to transfer the award amount, less the amount already deposited, if any, through RTGS/NEFT to the personal Savings Bank Account Number of the 1st respondent/claimant, after getting the Account Details from the claimant by the officials of the appellant-Insurance Company, on or before 09.02.2017; and in the facts and circumstances of the case, there will be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

List the matters on 10.02.2017 for reporting compliance.

Sd/

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To
The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal cum
Karur.

+1CC to M/S.Mr.D.Sivaraman, Advocate, SR.No. 80585

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