



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.725 of 2015

and

C.M.P. (MD) No.3 of 2015

V.Shanmugam

... Appellant/1st Respondent

Vs.

1.Selvaraj

...Respondent1/Petitioner

2.The Branch Manager,
Royal Sundaram Alliance
Insurance Company Limited,
Chennai.

... Respondent2/Respondent2

Prayer : Appeal filed under 173 of Motor Vehicles Act, 1988, to set aside the order and decree dated 15.03.2013 passed in M.C.O.P.No.63 of 2010 on the file of Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai.

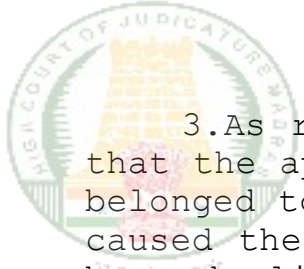
For Appellant : Ms.S.Jainab Beevi
for Mr.M.Vivekanandan

For Respondents : Mr.R.P.Ramachanthiran for R.1
Mr.S.Srinivasa Raghavan for R.2

JUDGMENT

The aggrieved vehicle owner has filed this appeal challenging the award dated 15.03.2013 made in MCOP.No.63 of 2010 on the file of Motor Accident Claims Tribunal/Chief Judicial Magistrate, Pudukottai.

2.The first respondent herein is the claimant. According to the first respondent herein, on 23.09.2009 he was hit from behind by the vehicle belonging to the appellant herein. He was an inpatient for almost 20 days. He suffered fractures and wanted compensation for a sum of Rs.5,00,000/-. The Tribunal after perusing the relevant evidential material such as FIR came to the conclusion that the vehicle in question was driven by one Pandi and that as a result of his rash and negligent driving, the accident in question took place. The said Pandi admitted his guilt before the Criminal Court and paid fine. Therefore, the appellant herein was held vicariously liable.



3.As regards the question on liability, the Court below noted that the appellant herein had deposed that the vehicle in question belonged to him. But that the same was stolen by one Pandi and he caused the accident and therefore the appellant herein should not be made liable. The Court below noted that the theory of theft has been projected for the first time only after occurrence and that the appellant did not file any police complaint earlier. The version projected by the appellant was rejected and liability was rightly fixed on the appellant. It was also admitted by the appellant that on the accident date the vehicle did not enjoy insurance cover. Therefore, the second respondent herein has not been made liable. The claimant has suffered 25% disability. He was inpatient for quite some time. Therefore, the compensation of Rs.74,000/- awarded to him cannot be said to be excessive. There is no merit in this appeal.

4.This Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal/
Pudukottai.

Copy to:

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.M.Vivekanandan , Advocate in SR No. 83108
+ 1 cc TO Mr.R.P.Ramachanthiran , Advocate in SR No. 83093
+ 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 83080

tsg

AE/MR KKR/SAR3/10.11.2017/2P/6C

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