

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1704 of 2010

Sivakumar ...Appellant/ petitioner

Vs

1.C.Sudharsanam

2.The Branch Manager,
National Insurance Company Ltd.,
Post Box No.10, 3rd Floor,
Anuradha Complex No.333,
Bangalore Road,
Krishnagiri Town,
Taluk & District. ...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award and Decree dated 11.03.2010 made in M.C.O.P.No.1591 of 2006 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.

For Appellant : Mr.M.Sriram

For Respondents : R1-Dismissed vide order of
Court dated 14.09.2018

Mr.S.Arun Kumar for R2

JUDGMENT

The instant appeal has been filed by the claimant challenging the Award dated 11.03.2010 passed by the the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri in M.C.O.P.No.1591 of 2006 rejecting the claim of the claimant.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i) The case of the Appellant is that he sustained injuries as a result of an accident that occurred on 25.03.2005 caused by a bus bearing Registration No.TAR-7373 owned by the first respondent and insured with the second respondent.

(ii) The Appellant preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.1591 of 2006 seeking a compensation of Rs.3,00,000/-.

(iii) The Motor Accident Claims Tribunal, by its Award, dated 11.03.2010 in M.C.O.P.No.1591 of 2006, dismissed the claim of the Appellant on the ground that the Appellant has not been able to establish before the Tribunal that he sustained injuries as a result of the said accident.

(iv) Aggrieved by the Award dated 11.03.2010 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.1591 of 2006, the instant appeal has been filed by the claimant.

3.Heard, Mr.M.Sriram learned Counsel for the Appellant and Mr.S.Arun Kumar, learned Counsel for the second respondent.

4.According to the learned Counsel for the Appellant, the Tribunal has erroneously failed to consider the documents filed by the Appellant and the evidence given by PW2-Doctor which corroborate each other and will prove that the Appellant sustained injury as a result of the accident caused by the bus insured with the second respondent.

5.Per contra, learned Counsel for the second respondent drew the attention of this Court to the findings of the Tribunal. He submitted that the evidence of PW1, the Appellant herein and the evidence of PW2, the Doctor who has allegedly examined the Appellant contradicts with each other. As per PW1, he sustained grievous injuries on his right leg, whereas, as per PW2- Doctor, the Appellant has sustained injuries on his left thumb. The Tribunal has considered the oral testimony of PW1 and PW2 and has rejected the claim of the Appellant on the ground that the evidence of PW1 and PW2 contradicts each other and the Appellant has not established that he has sustained injuries as a result of the alleged accident.

6.This Court has examined the impugned Award.

7.As rightly held by the Tribunal, the evidence of PW1 and PW2 contradicts with each other. PW2, the Doctor was examined only by the Appellant before the Tribunal. He is the Doctor who has examined the Appellant. As per PW1, the Appellant herein, he has sustained grievous injuries on his

right leg, whereas PW2, the Doctor who examined the Appellant, has deposed before the Tribunal that the Appellant has sustained injuries on his left thumb. Therefore, it is clear that the evidence of PW1 and PW2 are contradictory to each other. As a claimant, it is for the Appellant to establish before the Tribunal that he has sustained injuries as a result of the accident caused by a bus insured with the second respondent.

8.In the instant case, the Appellant has miserably failed to establish the same before the Tribunal. The Tribunal has rightly rejected the claim of the Appellant in view of the contradictory evidence given by the Appellant and his doctor.

9.In the light of the above observations, this Court is of the considered view that the Tribunal has rightly rejected the claim of the Appellant.

10.In the result, there is no merit in the instant appeal. Accordingly the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

arb/msr
To

1 .Motor Accident Claims Tribunal ,
Chief Judicial Magistrate,
Krishnagiri.

2.The Section Officer,
Vernacular Section,
High Court,Madras .

+1cc to Mr.Mukund R pandian , Advocate SR.No. 65960

+1cc to Mr.S.Arun Kumar , Advocate SR.No. 66365

C.M.A.No.1704 of 2010

ASK(31/10/2018)