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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.59 of 2008

P.C.Saravanan

...Appellant/Petitioner

Vs

1.P.S.Mani

2.The National Insurance Company Limited,
1631-1/6, Bavani Main Road,
Sankagiri Post & Taluk,
Salem District.

...Respondents/Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award dated 03.04.2006 made in M.C.O.P.No.26 of 2005 on the file of the Motor Accident Claims Tribunal, Sub-Court, Sankagiri.

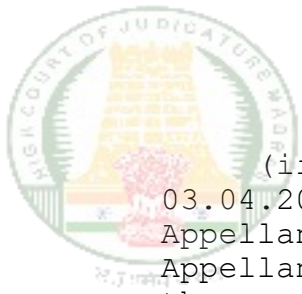
For Appellant : Mr.S.Elamurugan
For Respondents : Not ready in notice
regarding R1
Mr.S.Arun Kumar for R2

JUDGEMENT

The instant appeal has been filed by the claimant challenging the Award dated 03.04.2006 passed by the Motor Accident Claims Tribunal, Sub-Court, Sankagiri in M.C.O.P.No.26 of 2005, rejecting the claim of the Appellant who had made a claim of Rs.5,00,000/- for the injuries sustained by him, as a result of an accident allegedly caused by a vehicle bearing Registration No.TN-38-T-8806.

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

(i) The Appellant allegedly sustained injuries on 04.04.2004, as a result of an accident caused by a vehicle bearing Registration No.KL-01-G-8537 before the Motor Accident Claims Tribunal in M.C.O.P.No.26 of 2005.



(ii) The Motor Accident Claims Tribunal, by its Award dated 03.04.2006 in M.C.O.P.No.26 of 2005 rejected the claim of the Appellant on the ground that the vehicle, which according to the Appellant was re-registered as TN-38-T-8806 is not insured with the second respondent, but is insured with New India Insurance Company Limited. Since New India Insurance Company Limited was not a party to the proceeding, the claim was rejected by the Tribunal.

3. Aggrieved by the Award dated 03.04.2006 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.26 of 2005, the instant appeal has been filed by the claimant.

4. Heard, Mr.S.Elamurugan, learned Counsel for the Appellant and Mr.S.Arun Kumar, learned Counsel for the second respondent.

5. According to the learned counsel for the Appellant, the Tribunal ought not to have dismissed the claim of the Appellant, especially, when the accident has been established by the Appellant before the Tribunal. According to him, the Tribunal has failed to appreciate that as per the Ex.P.15 registration certificate, the registration No.TN-38-D-8806 is only the re-registration number of the vehicle bearing Registration No.KL-01-G-8537.

6. According to him, the Tribunal also failed to appreciate the fact that the first respondent who is the owner of the vehicle has accepted the involvement of his vehicle in the accident by admitting his guilt before the Criminal Court and payment of fine thereof under Ex.P.8.

7. Per contra, the learned Counsel for the second respondent would submit that the Tribunal has rightly rejected the claim of the Appellant, since the subject vehicle which was involved in the accident is not insured with the second respondent but insured with New India Insurance Company Limited. He drew the attention of this Court to the findings of the Tribunal under the impugned Award wherein the Tribunal has categorically held that the vehicle bearing Registration No.TN-38-T-8806 is not insured with the second respondent, but insured with New India Insurance Company Limited.

8. This Court has examined the impugned award and considered the materials available on record. The Tribunal has rightly rejected the claim of the Appellant, since there is no privity of contract between the second respondent Insurance Company and the Appellant as the subject vehicle involved in the accident is not insured with the second respondent.

9. In the result, there is no merit in the instant appeal.



Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

arb/msr

To

1. The Motor Accident Claims Tribunal,
Sub-Court, Sankagiri.

+1cc to Mr.S.Elamurugan, Advocate, S.R.No.67633

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.67568

C.M.A.No.59 of 2008

GJ(CO)
CS/20/11/2018