

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.6 OF 2009
AND CMP NO.5297 OF 2017

G.Mohanraj

... Appellant/Claimant

Vs.

1.P.Raju

2.Bajaj Alliance General
Insurance Co. Ltd.,
4th Floor, College Road,
Nungambakkam, Chennai - 2. ... Respondents/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen's Compensation Act, against the order dated 02.05.2007 passed in W.C.No.542 of 2005 by the Commissioner of Workmen's Compensation - I, Chennai - 6.

For Appellant : Mr.Varadha Kamaraj
For Respondent-2 : Ms.R.Sreevidhya

J U D G M E N T

Aggrieved over the dismissal of the claim petition made by the appellant, by the Authority under Workmen's Compensation Act, this Civil Miscellaneous Appeal is preferred before this Court.

2. According to the appellant, he travelled as a Loadman in the vehicle bearing registration No.TN04-S-2401 on 04.10.2005. Due to the rash and negligent driving, the vehicle lost his control and met with an accident at about 01.00 a.m. in the morning. FIR was lodged at Tindivanam Police Station in Crime No.1320 of 2005. The appellant was admitted in the Hospital for the injuries suffered by him. On the basis of the injuries suffered, he laid a claim petition before the Authority. The vehicle was insured under the second respondent at the relevant point of time. The Insurance Company denied the contents of the claim petition. On the basis of oral and documentary evidence, the Authority has rejected the claim petition as it was not proved. Aggrieved over the rejection order, the appellant is before this Court.

3. Heard the submissions made on either side and perused the materials available on record.

4. According to the appellant, the Authority ought not to have decided that no such accident had taken place, while FIR was lodged by the Driver of the vehicle. The accident was not disputed by the owner of the vehicle, the first respondent herein. In the absence of any material, the statements made by the claimant should have been taken as an admitted fact and the second respondent, the insurer, should have been directed to pay compensation.

5. On the basis of the grounds raised in the appeal, the following substantial questions of law were framed:-

"1) Whether the Commissioner for Workmen's Compensation - I ought not to have decided or there is non-occurrence of accident when the occurrence of accident was in course of employment and it has been not disputed by the first Respondent ?

2) Whether the Commissioner for Workmen's Compensation - I ought not to have decided that the petitioner has produced the document of first respondent that the accident has happened in the course of employment ? "

6. On perusing the materials on record, it is seen that the accident had allegedly taken place on 04.10.2005. But the FIR came to be registered only after ten days. FIR said to have been lodged by the driver of the vehicle. But, he has neither appeared before Police for giving statement nor produced vehicle for their inspection. Police has closed the FIR as " mistake of fact " as no such accident had taken place within their jurisdiction. The appellant would state that he does not even know the address of the first respondent / employer and he does not have any other proof of identity and has not lodged any complaint to the police.

7. It is submitted by the claimant that he was admitted in Stanley Medical College and Hospital at Chennai, on reference from Government Hospital, Tindivanam. In the accident register, which is sought to be marked as document, during pendency of the appeal also shows that information was given to the police. But strangely during his evidence, he would state that Police have not enquired and he was not aware of the closure of FIR by the jurisdictional police. To show that he was admitted in Government Hospital, Tindivanam, he has not produced any evidence. Other than the statement given before the authorities of Stanley Medical College and Hospital, there is no iota of evidence to show that the alleged accident had taken place at Tindivanam and the claimant suffered injuries. There is no evidence to show that the claimant was an employee of the first respondent and that the first respondent's vehicle involved in the accident.

8. In the absence of any proof, with regard to the accident, employment status, and proof of income, the Authority has rightly come to a conclusion that the claimant has not proved his case for compensation. More so, the very accident alleged by the appellant / claimant was proved to be false, by virtue of the closure of FIR by Tindivanam Police Station. I do not find any infirmity in the finding of the Authority under the Workmen's Compensation Act. The appellant / claimant has failed to raise any substantial questions of law and therefore, the Civil Miscellaneous Appeal merits no consideration.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

TK
To
The Commissioner of Workmen's
Compensation - I,
Chennai - 6.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to Mr.K. Varadha Kamaraj, Advocate Sr.13437

C.M.A.NO.6 OF 2009

KGK(CO)
EU(16/04/2018)

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