

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.774 of 2009 and
M.P.No.1 of 2009

Jagannathan

...Appellant

Vs

1.Ravi

2. National Insurance Company Ltd.,
Post Box No.15,
Thanthai Periyar Perangadi,
Near Old Bus Stand,
Salem.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal [Principal Sub Court], Salem made in M.C.O.P.No.615 of 2000 dated 04.08.2005.

For Appellant : Mr.S.Sounthar

For Respondents : Ms.N.B.Surekha for R2

J U D G M E N T

The instant appeal has been filed challenging the award dated 04.08.2005 passed by the Motor Accident Claims Tribunal [Principal Sub-Court, Salem] in M.C.O.P. No.615 of 2000.

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

(i) The 1st Respondent sustained injuries, as a result of an accident caused by a lorry bearing Registration No.TN 33 J 8899 owned by the Appellant and insured with the 2nd respondent. The 1st Respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.615 of 2000 seeking compensation of Rs.3,00,000 for the injuries sustained by him, as a result of the accident caused by a lorry owned by the appellant and insured with the 2nd Respondent.

(ii) The Motor Accident Claims Tribunal by its award dated 04.08.2005 in MACT O.P.No.615 of 2000 exonerated the liability of the 2nd Respondent / insurance company and

directed the Appellant to pay the 1st Respondent a sum of Rs.56,400/- [Rupees Fifty Six Thousand and four hundred only] together with interest at 7.5% per annum from the date of claim Petition till the date of realisation.

(iii) Aggrieved by the exoneration of liability of the 2nd respondent under the impugned award, the instant appeal has been filed by the appellant / owner of the vehicle.

3. Heard Mr.Sounthar, learned counsel for the appellant and Ms.N.B.Surekha, learned counsel for the 2nd respondent.

4. According to the learned counsel for the appellant, the Tribunal has erroneously given a finding that the 1st respondent was travelling only as a gratuitous passenger in the lorry and was not a coolie employed by the appellant. He drew the attention of this Court to the finding of the Tribunal and submitted that a suggestion put during cross examination on P.W.1 / 1st respondent was mistook by the Tribunal, as if it was an admission made by P.W.1 that he was a gratuitous passenger.

5. Per contra, the learned counsel for the 2nd respondent / Insurance Company would submit that a complaint was given only by the 1st Respondent before the Police giving the details of the accident. She drew the attention of this Court to the F.I.R. registered by the police, based on the complaint given by the 1st respondent. According to her, as seen from the FIR, the 1st Respondent has admitted that he was proceeding to his mother-in-law's place and was travelling in the lorry as a gratuitous passenger and not as a coolie employed by the appellant. Therefore, according to her, the Tribunal has given a correct finding that the 1st respondent was only a gratuitous passenger and not a coolie employed by the appellant. Therefore, as a gratuitous passenger, the 2nd respondent is not liable to compensate the claim of the 1st respondent.

6. This Court, after having considered the materials available on record and the submissions of the respective learned counsels and after examining the impugned award, observes the following :

(i) The Tribunal has rightly come to the conclusion that the 1st Respondent was travelling only as a gratuitous passenger, as evident from the F.I.R. registered by the police, based on the complaint lodged by the 1st Respondent, who is a claimant in the claim petition.

(ii) The F.I.R. categorically states that the 1st Respondent was only a gratuitous passenger and he was travelling in the lorry to see his mother-in-law and F.I.R.

does not say that the 1st Respondent was a coolie employed by the appellant. No contra evidence has been produced by the appellant before the Tribunal to prove that the 1st respondent was not a gratuitous passenger.

(iii) This Court is in agreement with the finding given by the Tribunal under the impugned award that the 1st respondent was a gratuitous passenger.

In the result, there is no merit in the instant appeal. Accordingly, the present Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS v)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Motor Vehicles Accidents Claims Tribunal,
Principal Sub Court, Salem

2.The Record Clerk,
VR Section,
High Court, Madras.

+1cc to Mr.S.Sounthar , Advocate SR.No. 65246

+1cc to Mr.N.B.Surekha , Advocate SR.No. 64879

C.M.A.No.774 of 2009 and
M.P.No.1 of 2009

ASK(12/11/2018)

सत्यमेव जयते

WEB COPY