



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.82 of 2010

and MP.No.1 of 2010

National Insurance Co. Ltd.
81-D, Chetty Street,
Tiruchengodu - 637 211.
Namakkal District.

... Appellant/2nd Respondent

Vs

1.P.Perumal

...Respondent/Petitioner

2.R.Sundaram

...Respondent/1st Respondent

(R-2 set exparte in the Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 23.04.2009 made in MCOP No.914 of 2004 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) at Namakkal.

For Appellant : M/s.R.Srividya

For Respondents: R1 - No appearance
R2 - Ex parte

J U D G M E N T

The instant appeal has been filed by the Appellant/Insurance Company challenging the award dated 23.04.2009, passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Namakkal in MCOP.No.914 of 2004.

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

The first respondent sustained injuries as a result of an accident caused by a rig support vehicle being Registration No.TN 28 U 6595 insured with the Appellant. The first respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP No.914 of 2004. The Motor Accident Claims Tribunal by its award dated 23.04.2009 in MCOP No.914 of 2004, directed the Appellant to pay the first respondent a sum of Rs.55,000/- together with interest at 7.5% from the date of claim till the date of realization.



3. Aggrieved by the Award dated 23.04.2009, the instant appeal has been filed.

4. Heard Ms.R.Srividhya, learned Counsel for the Appellant. Despite service of notice on the respondents and their names having been printed in the cause list today, none appears on their side behalf.

5. According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the first respondent was a passenger travelling in a goods vehicle, which was insured with the Appellant. Being a passenger, the Appellant/Insurance Company is not liable to pay any compensation to the first respondent, who was travelling in the goods vehicle.

6. This Court after considering the materials available on record and after perusing and examining the impugned Award and after hearing the submissions of the learned Counsel for the Appellant observes the following:

(a) The case of the first respondent in his claim petition is that he was a cleaner in the goods vehicle, which was insured with the Appellant. It is also the consistent stand of the first respondent both in his claim petition as well as in his oral evidence that he was a cleaner.

(b) No contra evidence has been produced by the Appellant before the Tribunal to disprove the claim of the first respondent that he was a cleaner.

(c) The first respondent has filed 13 documents which are marked as Exs.P-1 to P-13 and he has also examined two witnesses namely PW-1 and PW-2 before the Tribunal. The first respondent was himself examined as PW-1. The Appellant had also cross-examined PW-1 and there is no admission by the first respondent that he was a passenger whereas his consistent stand has been that he was a cleaner.

(d) The nature of the injuries sustained by the first respondent is also not disputed by the Appellant. Documentary evidence has also been placed by the first respondent to prove the nature of injuries sustained by him as a result of the accident.

7. Considering the nature of injuries sustained by the first respondent, the Tribunal has awarded a sum of Rs.55,000/- in favour of the first respondent. The Tribunal has passed a



considered and well reasoned Award. This Court is of the considered view that there is no ground for interference by this Court.

8. In the result, the Appeal shall stand dismissed. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

pam

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate) at Namakkal.

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

+1cc to M/s.R.Shree Vidhya, Advocate SR.NO.61375

CP(CO)

sm:28.9.2018

C.M.A.No.82 of 2010
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