



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A (MD) No.233 of 2015

and

M.P (MD) No.1 of 2015

and

C.M.P (MD) No.9004 of 2018

United India Insurance Co. Ltd.,
rep. by its Branch Manager,
254, Goods Shed Street,
Madurai-1.

.. Appellant/2nd Respondent

vs.

1.R.Bharathkumar
2.M.Sundaresan

.. 1st Respondent/Petitioner
.. 2nd Respondent/1st Respondent

Prayer: The appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Judgment and decree, dated 05.09.2013 in M.C.O.P.No.764 of 2009, on the file of the Motor Accident Claims Tribunal (IV Additional Subordinate Judge) Madurai.

For Appellant : Mr.A.S.Mathiyalagan
For R1 : Mr.R.Suriyanarayanan

JUDGMENT

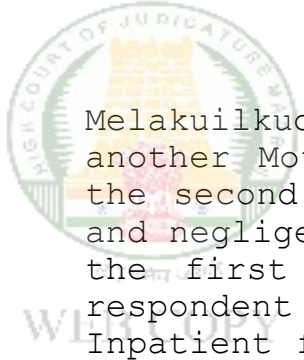
Being aggrieved by the award passed by the Motor Accident Claims Tribunal (IV Additional Subordinate Judge) Madurai, in M.C.O.P.No.764 of 2009, dated 05.09.2013, the appellant/second respondent has filed the present appeal.

2.The appellant Insurance Company is the second respondent, the first respondent is the claimant and the second respondent is the first respondent in M.C.O.P.No.764 of 2009. The first respondent filed the said claim petition claiming a sum of Rs.1,00,000/- as compensation, for the injuries sustained by him, in the accident that occurred on 24.12.2005.

3.Facts of the Case:-

<https://heservices.ecourts.gov.in/heservices/>

According to the first respondent, while he was riding a Motorcycle bearing Registration No.TN-59-P-9061 from Madurai to



Melakuilkudi, near Achampathu burial ground, the rider of the another Motorcycle bearing Registration TN-59-D-0514 belonging to the second respondent insured with the appellant, driven in a rash and negligent manner and dashed from behind the motorcycle in which, the first respondent was riding. Due to the same, the first respondent sustained injuries and he was in hospital for two days as Inpatient from 24.12.2005 to 25.12.2005 and hence, he filed a claim petition claiming a sum of Rs.1,00,000/- as compensation.

4.The second respondent remained ex-parte before the Tribunal.

5.The appellant resisted the claim on the ground that the rider of the Motorcycle belonging to the second respondent was not having valid driving licence.

6.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent riding by the rider of the motorcycle belonging to the second respondent and awarded a sum of Rs.70,529/- as compensation holding that the appellant as insurer of the motorcycle, liable to pay compensation to the first respondent.

7.Aggrieved by the said findings, the appellant has come out with the present appeal.

8.The contention of the learned counsel appearing for the appellant that the rider of the motorcycle belonging to the second respondent was not having valid driving licence at the time of accident was not considered properly by the Tribunal and erroneously fixed the burden of proof on the appellant and failed to see that the driver of the second respondent was charge-sheeted Under Sections 3 r/w Section 181 of the Motor Vehicles Act, is not acceptable. The appellant failed to substantiate his claim either by summoning the rider of the vehicle belonging to the second respondent or summoning the Officials from the Regional Transport Office to prove that the rider was not having valid driving licence at the time of accident. The appellant did not let in any acceptable evidence to prove his case. The Tribunal has considered the evidence on record and has rightly held that the appellant failed to prove that the rider of the motorcycle did not possess driving licence at the time of accident and there is no reason to interfere with the said findings of the Tribunal.

9.With the above reasons, the Civil Miscellaneous Appeal is dismissed. The appellant Insurance Company is directed to deposit the compensation amount awarded by the Tribunal along with accrued interest and costs, less the amount already deposited, if any, to the credit of M.C.O.P.No.764 of 2009, on the file of the Motor Accidents Claim Tribunal (IV Additional Sub-Judge), Madurai, within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit being made, the first respondent/claimant



is entitled to withdraw the compensation amount with respective proportionate interest, by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Motor Accident Claims Tribunal
(IV Additional Subordinate Judge),
Madurai.

Copy To:-

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.A.S.MATHIYALAGAN, ADVOCATE IN SR No. 84605
+ 1 CC TO Mr.R.SURIYA NARAYANAN, ADVOCATE IN SR No. 84901

AM
TE/PM/SAR-1 : 28/12/2018 : 3P/6C

C.M.A (MD) No.233 of 2015
17.09.2018