

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.10.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI**C.M.A. (MD) No.814 of 2018**

Arulselvan ... Appellant/Claimant

Vs.

1.A.Jesuraj

2.The Branch Manager,
Bajaj Alliance General Insurance Co. Ltd.,
Rajapalayam,
Virudhunagar District. ... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in M.C.O.P.No.163 of 2008 passed by the Motor Accident Claims Tribunal, (Sub Court), Srivilliputtur, dated 04.11.2016 and enhance the award amount.

For Appellant : Mr.T.Lenin Kumar

For R2 : M/s.K.R.Shivashankari

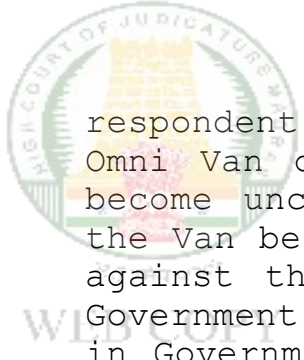
JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the dismissal order passed by the Motor Accident Claims Tribunal, (Sub Court), Srivilliputtur, dated 04.11.2016, made in M.C.O.P.No.163 of 2008.

2.By consent of both parties, the Civil Miscellaneous Appeal itself is taken up for final disposal.

3.The appellant/claimant filed a claim petition in M.C.O.P.No.163 of 2008 claiming a sum of Rs.5,00,000/- as compensation, for the injuries sustained by him in the accident that occurred on 14.12.2007.

4.According to the appellant, on 14.12.2007 while he was driving the Omni Van bearing Registration No.TN-67-K-1149 proceeding from South to North, Near Kamarajar Nagar, Angalaeswari Temple at Sattur to Tenkasi Road, due to rash and negligent driving by the driver of the Van, bearing Registration No.TN-60-1112 belonging to the first respondent insured with the second



respondent coming in the opposite direction, dashed against the Omni Van driven by the appellant. Due to the injuries, he has become unconscious. Taking advantage of the same, the driver of the Van belonging to the first respondent lodged a false complaint against the appellant. The appellant was initially admitted in Government Hospital, Rajapalayam and subsequently, took treatment in Government Rajaji Hospital, Madurai. He sustained fracture in the right leg and due to the same, he is not able to do his normal activities, as he was doing earlier. A criminal case was registered in Cr.No.344 of 2007 against the appellant. The vehicle of the first respondent was insured with the second respondent and hence, both the respondents are liable to pay compensation.

5.The first respondent remained ex-parte before the Tribunal.

6.The second respondent filed counter statement and contended that the accident did not occur as alleged by the appellant. Due to the rash and negligent driving by the appellant only, the accident had occurred. The FIR has been lodged only against the appellant. Charge-sheet was also laid against the appellant and prayed for dismissal of the claim petition against the second respondent.

7.The Tribunal, considering the pleadings, oral and documentary evidence, dismissed the claim petition holding that the accident occurred only due to rash and negligent driving by the appellant and appellant being a tort-feasor, is not entitled to claim any compensation.

8.Against the said order of dismissal, the appellant has filed the present Civil Miscellaneous Appeal.

9.The learned counsel appearing for the appellant contended that after the accident, he has become unconscious and was taking treatment for 15 days in the Hospital. Taking advantage of the same, the driver of the Van belonging to the first respondent lodged false complaint against the appellant. This contention is unacceptable. The appellant has not stated that how many days he was unconscious. After regaining conscious, the appellant has not lodged any complaint against the driver of the Van belonging to the first respondent.

10.From the materials on record, it is seen that the appellant has not proved that the accident occurred due to rash and negligent driving by the driver of the Van belonging to the first respondent. The Tribunal considering the materials, dismissed the claim petition by giving cogent and valid reason. There is no



11. In the result, the Civil Miscellaneous Appeal is dismissed.
No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

The Motor Accident Claims Tribunal,
Sub Court, Srivilliputtur.

Copy to

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

+1 cc to Mr. T. Lenin Kumar , Advocate SR.No.89157

+1 cc to M/s. K.R. Shivashankari , Advocate SR.No.89208

am

C.M.A. (MD) No. 814 of 2018

05.10.2018

_KM/ (01.03.2019) 3P 6C