



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2018

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CMA (MD) .No.416 of 2013

N.Karthikeyan

: Appellant/claimant

Vs.

1.A.Akbar Sha

2.A.T.Kannan

3.United India Insurance Company Limited,
No.22, 1st Floor,
Shyamaladevi Ammankovil Stree Panthaladi,
Mannarkudi,
Thiruvarur.

: Respondents/Respondents

(R1 and R2 set ex parte. No notice need be served)

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act to set aside the Award, dated 17.02.2011 made in MCOP.No.64 of 2009, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Karur.

For Appellant : Mr.N.Shanmugaselvam
For R3 : Mr.I.Robert Chandrakumar
for Mr.G.Prabhu Rajadurai

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Award dated 17.02.2011 made in MCOP.No.64 of 2009, on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Karur.

2. According to the appellant, while he was travelling as a pillion rider in a motorcycle originally belonged to first respondent, subsequently, belonging to the second respondent, insured with the third respondent, an unknown Lorry dashed against the motorcycle and caused accident and the appellant sustained injuries and filed the claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by him.

3. The respondents 1 and 2 remained ex parte before the Tribunal.



4. The third respondent in the counter stated that admittedly the accident was caused by an un-known lorry and the third respondent is not liable to pay any compensation. The third respondent also raised various objections with regard to other claim.

5. The Tribunal considering the pleadings, oral and documentary evidence, dismissed the claim petition.

6. Against the said order of dismissal, the appellant has filed the present appeal.

7. I have heard the learned counsel appearing on either side and perused the materials available on record.

8. The learned counsel appearing for the appellant contended that the appellant has filed claim petition under Section 163(A) of Motor Vehicles Act. Therefore, the appellant need not prove the negligence. This contention is erroneous. Only when the appellant proves that the accident was caused by a particular vehicle, then only, the appellant need not prove the negligence on the part of the driver of the said vehicle. In the present case, according to the appellant, driver of the motorcycle was driving the motorcycle cautiously following the traffic rules and the accident was caused by the rash and negligent driving by the driver of unknown Lorry. In such case, Section 163(A) of Motor Vehicles Act is not applicable.

9. The Tribunal has considered Section 163(A) of the Motor Vehicles Act and rightly held that the appellant is not entitled to claim compensation from the respondents, as the motorcycle belonging to the second respondent insured with the third respondent was not responsible for the accident. There is no perversity in the Award passed by the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Award dated 17.02.2011, made in MCOP.No.64 of 2009, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Karur. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)



1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Karur.

2. The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 92148

+ 1 CC TO Mr.N.SHANMUGA SELVAM, ADVOCATE IN SR No. 92062

TRP

TE/SKN/SAR-4 : 28/12/2018 : 3P/6C

CMA (MD) .No.416 of 2013
25.10.2018