

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3685 of 2004
& C.M.P.No.19773 of 2004

M/s. United India Insurance Co. Ltd.,
Divisional Office,
364-367 Dr. Nanjappa Road,
Coimbatore - 18

.. Appellant / R-3 / Insurer

Vs.

1. S.Asokan

... R-1 / claimant / Insured

2. M.Mohammed Iqbal

3. M.Mohammed Abdul Bari

... R-2 & R-3 / R-1 & R-2
before the Tribunal.

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 04.09.2002 made in M.C.O.P.No.262 of 1998 on the file of the Motor Accident Claims Tribunal (Principal Sub Court I/c), Coimbatore.

For Appellant : Mr. N.Vijayaraghavan

For Respondents : M/s. P.T.Ramadevi, for R-1

No Appearance, for R-2 & R-3.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed as against the award dated 04.09.2002 made in M.C.O.P.No.262 of 1998 on the file of the Motor Accident Claims Tribunal, Principal Sub Court (I/c), Coimbatore.

2. The first respondent herein is the claimant in M.C.O.P.No.262 of 1998 on the file of the Motor Accident Claims Tribunal, Principal Sub Court (I/c), Coimbatore. He filed the above said claim petition, claiming a sum of Rs.1,50,000/- as compensation for the damages caused to his Ambassador Car, in an accident that took place on 28.09.1996.

3. The Tribunal, considering the pleadings, oral and documentary evidence, more particularly, the evidence of P.W.2-report of Motor Vehicle Inspector with that of Ex.P-10-Repair Receipt, Ex.P-6-hiring receipt, Exs.P-7 and P-8-Receipt of Damage Appraiser, has held that the accident was an inadvertent one and arrived at a compensation of Rs.61,450/- under the following breakup details:-

Vehicle damages	:	Rs. 3,500/-
Surveyor Fee	:	Rs. 1,500/-
Replacement of parts of vehicle	:	Rs. 1,000/-
Labour for repair	:	Rs.20,000/-
Replacement	:	Rs.35,450/-

		Rs.61,450/-

4. Challenging the same, the appellant / Insurer has come out with the present appeal.

5. The learned counsel for the claimant / first respondent herein, at the outset, submitted that despite several attempts made to contact the claimant by Registered Letters and other communications, there is no response from the claimant.

6. In view of the said submission, considering the paucity of time and considering the fact that this case has been adjourned for more than nine occasions right from 2004, the Appeal itself is taken up for final disposal.

7. The learned counsel appearing for the Insurer / appellant / Insurance Company has submitted that the Tribunal has erred in awarding a sum of Rs.61,450/- as compensation, overlooking the fact that the appellant's liability is restricted to the sum of Rs.6,000/- only in regard to third party property. He further submitted that the Tribunal has erred in not appreciating the documents on record, properly.

8. The third party vehicle damage is a subject matter, for which, towards replacement of parts of the vehicle, the Tribunal has awarded Rs.35,450/- and towards labour charges Rs.26,000/- was awarded (in total a sum of Rs.61,450/-).

9. In the present case, it is very clear that the damage has been caused only to the third party property. There will not be any quarrel over the proposition that, as per Section 147 (2) (b) of the Motor Vehicles Act, the liability of the appellant / Insurer / Insurance Company towards third party property damage is restricted only to a sum of Rs.6,000/-. Further, the second respondent / owner of the vehicle has not paid any extra premium towards unlimited third party property damage, which is evident from the evidence of R.W.1 and Ex.R-1- certified copy of the Insurance Policy. The Bill for spare parts, Ex.P-9 and the bill for labour charges, Ex.P-7 have not been substantiated by oral evidence.

10. In such view of the matter, the award of the Tribunal is set-aside, the Civil Miscellaneous Appeal is partly-allowed, with the following directions :-

1. The claimant / R-1 is entitled to a sum of Rs.6,000/- only.

2. Leaving a sum of Rs.6,000/- towards the compensation, as stated supra, the rest of the amount deposited by the appellant / Insurance Company is permitted to be withdrawn by the appellant herein."

No costs. Consequently, the connected CMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal (Principal Sub Court I/c),
Coimbatore.

2.The Section Officer
VR Section
High Court,
Madras-104

सत्यमेव जयते

+1 cc to M/s.P.T.Ramadevi Advocate sr74700
+1 cc to M/s.M.B.Gopalan Advocate sr73723

C.M.A.No.3685 of 2004
& C.M.P.No.19773 of 2004

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