

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.3061 OF 2007

The Divisional Manager,
The United India Insurance Company Limited,
No.46, Jawaharlal Nehru Street,
Pondicherry - 1.

... Appellant/2nd Respondent

vs.

1.Duraisamy ... 1st Respondent/Petitioner

2.R.Ravikumar ... 2nd Respondent/1st Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 31.08.2007 passed in MCOP.No.1147 of 2003 on the file of the Presiding Officer Motor Accident Claims Tribunal/Pondicherry.

Appellant : Mr.S.J.Jagadev

Respondents : No appearance

JUDGMENT

The appellant, the Divisional Manager, United India Insurance Company Limited is the second respondent in MCOP.No.1147 of 2003 on the file of the Motor Accident Claims Tribunal, Pondicherry. The 1st respondent/claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,50,000/- for the injuries sustained by him in a road accident on 09.07.2003.

2. The case of the claimants is that on 09.07.2003, when he was crossing the road at about 18.30 hours, near Ajantha theatre bridge, Puducherry, a speeding Bajaj Super two wheeler bearing Registration No. PY 01 J 0112, hit him, as a result whereof, he sustained injuries all over his body.

3. According to the claimant, the rash and negligent riding of the rider of the Bajaj Super two wheeler bearing Registration

No.PY 01 J 0112 belonging to the second respondent, was the cause of the accident and that since the said two wheeler was insured with the present appellant/United India Insurance Company Limited, the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation.

4. The second respondent, owner of the two wheeler remained absent before the Tribunal and therefore, he was set ex-parte. The appellant/United India Insurance Company Limited contested the claim petition on all the grounds available to the insured and the Motor Accidents Claims Tribunal, Pondicherry after analysing the evidence on record, awarded a compensation of Rs.55,420/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the orders passed by the Tribunal, the United India Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.S.J.Jagadev, learned counsel appearing for the appellant contended that the vehicle bearing Registration No. PY 01 J 0112 was wrongly implicated in the instant case which is clear from the FIR wherein the Registration Number of the vehicle is not mentioned. His further contention is that the time of accident also differs in FIR and medical records.

6. No appearance on behalf of the respondents.

7. It is pertinent to point out that FIR was lodged by the son of the deceased who was not an eyewitness to the occurrence and after full investigation, the Inspector of Police Puducherry, Traffic Police Station laid a charge sheet against the rider of the two wheeler bearing Registration No. PY 01 J 0112 belonging to the second respondent, before the learned Judicial Magistrate No.2, Puducherry. In fact, the Tribunal had dealt with this aspect in extenso and had clearly held that the rider of the two wheeler bearing Registration No. PY 01 J 0112 belonging to the second respondent was the cause of the accident and therefore the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation. In the facts and circumstances of the present case, the orders passed by the Tribunal are perfectly in order and I do not see any reason to interfere with the same.

8. As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel appearing for the appellant and no cross objection/appeal was filed by the claimant. A perusal of the award also shows that it is not on the higher side and in the facts and circumstances, the appeal fails and is dismissed.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The orders passed by the Tribunal is upheld.

(iii) The appellant/United India Insurance Company Limited as well as the second respondent are directed to deposit the compensation awarded by the Tribunal i.e., Rs.55,420/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1147 of 2003 on the file of the Motor Accident Claims Tribunal/Pondicherry within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent/claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mtl

To

The Presiding Officer,
The Motor Accidents Claims Tribunal,
Pondicherry.

+1cc to Mr.S.J.Jagadev, Advocate, S.R.No.90584

MR(CO)
CS/11/12/2020

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