

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.389 of 2006

Dhanabal

.... Appellant

Vs.

1.K.Rajanbabu

2.The United India Insurance Co.Ltd.,
rep.By its Branch Manager,
Kallakurichi Taluk.

3. The United India Insurance Co.Ltd.,
rep.By its Branch Manager,
Nagapattinam, Nagapattinam District.

.... Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 04.01.2005 made in MCOP No.239 of 2003 on the file of the Motor Accident Claims Tribunal, Principal Sub-Judge, Nagapattinam.

For Appellant : M/s.S.T.P.Kuilmozhi

For R-2 and R-3 : Mr.S.Arunkumar

For R-1 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the judgement and decree passed by the claims Tribunal in MCOP No.239 of 2003, dated 04.01.2005, whereby, the claim petition filed of the appellant / claimant was dismissed.

2. It is the case of the claimant, before the Tribunal that on 14.06.2010 at about 11.45 p.m., while he was riding his two-wheeler bearing Registration No.TN.51A 8276, the driver of the tanker lorry bearing Registration No.TN 01/T2413, which was

preceding the two-wheeler has applied the sudden break, due to which, the appellant/claimant hit the lorry. Due to the said impact, the appellant/claimant fell down and sustained fracture on right elbow, loss of two teeth and grievous injuries all over his body. Stating so, he filed a claim petition seeking compensation of Rs.3,00,000/-.

3. The Tribunal, after framing issues and examining the oral and documentary evidence, has dismissed the claim petition, observing that the claimant/appellant has not proved the accident in the manner known to law, against which, this Civil Miscellaneous Appeal is preferred by the claimant/appellant.

4. Heard the learned counsel for the appellant/claimant as well as the learned counsel for the respondents 2 and 3/Insurance Companies.

5. The learned counsel for the appellant/claimant submitted that the dismissal of the claim petition by the Tribunal is per se illegal and against the probabilities of the case. He further submitted that there is no contra evidence to disprove the case of the appellant/claimant.

6. Per contra, the learned counsel for the respondents 2 and 3/Insurance Companies submitted that in the absence of a valid insurance policy, the respondents are not liable to compensate the claimant. He further submitted that the findings rendered by the Tribunal on negligence are based on documents produced by the appellant/claimant herein, which does not require any interference by this Court.

7. This Court is of the view that the award passed by the claims Tribunal has to be sustained for more than one reasons.

8. Firstly, in the absence of any valid insurance policy, the respondents are not liable to compensate the appellant/claimant.

9. Secondly, it is the case of both sides that the appellant/claimant was riding his two-wheeler behind the tanker lorry. It is a normal expectancy that the succeeding vehicles driven/ridden should be more cautious and vigilant than the preceding vehicles driven/ridden. The aversion of accident was always in the hands of succeeding vehicle.

10. Thirdly, the grounds raised by the appellant/claimant are highly speculative and baseless.

11. Added to the above, when the claimant/appellant fails to adduce any evidence with regard to the insurance policy of the motor vehicle, it cannot be permitted to say that the respondents herein are liable to pay compensation. Hence, this Court is of the opinion that the dismissal of the claim petition by the Claims Tribunal is sustainable, though on different grounds.

12. In the result, this Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

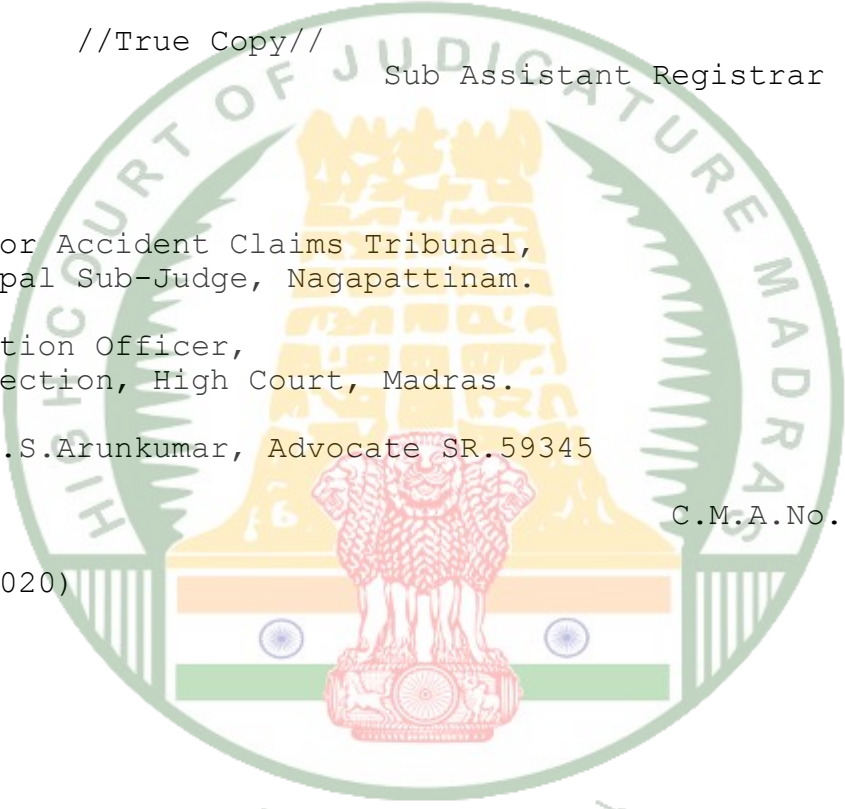
kv/srk
To

1. The Motor Accident Claims Tribunal,
Principal Sub-Judge, Nagapattinam.
2. The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate SR.59345

C.M.A.No.389 of 2006

VSN-II (CO)
CB(03/03/2020)



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