

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.881 of 2007
and M.P.No.2 of 2007

The Oriental Insurance Co. Ltd.,
Branch Manager,
75, Krishnan Street,
Tiruvannamalai.

... Appellant/3rd Respondent

Vs.

1.Venkatesan ... 1st Respondent/Petitioner
2.G.P.Ravi ... 2nd Respondent/1st Respondent
3.Ranganathan ... 3rd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree passed in M.C.O.P.No.605 of 2004 on 23.03.2006 on the file of the learned Motor Accident Claims Tribunal (Additional Subordinate Judge) Tiruvannamalai.

For Appellant : Mr.J.Chandran

For Respondent 1 : No Appearance

For Respondent 3 : Mr.R.Chandrasudan

J U D G M E N T
सत्यमेव जयते

This Civil Miscellaneous Appeal arises out of the order and decree dated 23.03.2006 passed by the Motor Accident Claims Tribunal (Additional Subordinate Judge) Tiruvannamalai, in M.C.O.P.No.605 of 2004.

2.The case in brief is as follows:

On 29.08.2003 at about 7.00 a.m., the first respondent/claimant was travelling along with others, in a Minidor Auto bearing Regn.No.TN32 X 6294 from Se.Pettai Village towards Gingee. When the Auto was nearing Palapadi Cross Road, it got capsized, due to rash and negligent act on the part of its driver. Due to the said impact, the 1st respondent/claimant

sustained injuries all over his body. Stating so, he filed a claim petition claiming a compensation of Rs.3,00,000/-. On consideration of the oral and documentary evidence, the Tribunal has awarded a total compensation of Rs.15,000/- with interest at 7.5%p.a from the date of petition. Challenging the same, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant submitted that the first respondent/claimant had travelled as an unauthorised passenger in the goods carriage vehicle in violation of the policy conditions and hence, the appellant insurance company is not liable to pay any compensation. The learned counsel also submitted that in the absence of any evidence, the Tribunal has erred in awarding a compensation of Rs.15,000/-. Hence, the learned counsel sought to set aside the order of the Tribunal in toto.

4.Heard the learned counsel for the appellant and the learned counsel for the third respondent. Despite service of notice, there is no representation on behalf of the first respondent/claimant.

5.On a perusal of the award, it is seen that P.W1/first respondent/claimant has deposed that on 29.08.2003, he met with an accident, while travelling in the Minidor Auto, due to rash and negligent act on the part of its driver. Ex.P1 First Information Report was registered against the driver of the Minidor Auto. Ex.P5 charge sheet was also laid down against him. Whereas, it was put forth on the side of the appellant insurance company that the first respondent/claimant had travelled as an unauthorised passenger in the goods carriage vehicle and hence, they were not liable to pay compensation. However, they were not established their stand by adducing any concrete material evidence. Hence, the Tribunal, based on the oral and documentary evidence and also taking note of the fact that the appellant insurance company was already fastened with liability to pay compensation in two MCOP.Nos.112 and 115/2004, arising out of the same accident, has rightly come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Minidor Auto and accordingly, fastened the liability on the appellant insurance company, which this Court is not inclined to interfere.

6.Regarding the quantum of compensation, the Tribunal placing reliance on the evidence of the first respondent/claimant (PW1) coupled with Ex.P3 accident register and Ex.P4 discharge summary, has awarded a just compensation of Rs.15,000/- and hence, the same does not call for any interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant / Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount lying in the deposit to the Savings Bank Account of the first respondent/claimant, through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar(Arbitration)

//True Copy//

Sub Assistant Registrar

rna/rk

To

- 1.The Motor Accidents Claims Tribunal,
Additional Subordinate Judge,
Tiruvannamalai.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.

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and M.P.No.2 of 2007

GMR (CO)
GN (20/02/2020)

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