

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1779 of 2010

Senthilkumar

... Appellant/Petitioner

vs.

1.Sampath

2.United India Insurance Co. Ltd.,
Divisional Officer, I,
104/A, Peramnur Main Road,
Salem.

... Respondents /Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and award dated 27.08.2009 made in MCOP.No.256 of 2006 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.I, Salem.

For Appellant : Mr.K.Kuppusamy

For Respondents : Mr.S.Arunkumar for R2
No Appearance for R1

J U D G M E N T

The Appellant is the claimant in M.C.O.P.No.256 of 2006 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.I, Salem.

2. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident on 13.09.2000.

3. The case of the claimant in nutshell is as follows:

On 13.09.2000, the claimant was riding his motor cycle bearing Registration No.TN-27-F-9016 on Salem - Athur Main Road and when he was nearing Kundukallur Vediappan Temple, a speeding lorry bearing Registration No.TN-69-6179 hit him, as a result of which the claimant fell down and sustained injuries all over his body. His further contention is that his two wheeler was also damaged to the tune of Rs.50,000/-. Therefore, he prayed for

compensation of Rs.2,00,000/- for the injuries sustained by him and for the damage of his two wheeler from the owner of the lorry as well as the insurer.

4. After full contest, the learned Additional District Judge, Fast Track Court No.I, Salem / Motor Accident Claims Tribunal, awarded a compensation of Rs.10,000/- together with interest at the rate of 7.5% p.a. The Tribunal further held that since the vehicle was already sold to a third party immediately after the accident, the claimant is not entitled to get any amount towards damage to the vehicle. Aggrieved over the orders passed by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel for the appellant/claimant contended that though the claimant had adduced sufficient evidence to show that he had incurred an expenditure of Rs.50,000/- for repairing his two wheeler, the Tribunal did not award any amount to him merely on the ground that the vehicle was transferred to a third party after the accident. According to him, such an observation made by the Tribunal cannot be sustained since on the date of the accident, the vehicle was in the name of the claimant.

6. Per contra, the learned counsel appearing for the Insurance Company contended that no documents were adduced by the claimant to show that he had incurred expenditure for Rs.50,000/- towards damage of his two wheeler and that the claimant also admitted the same during the course of cross-examination that he had sold the vehicle in favour of another person.

7. In the instant case, though the claimant contends that he spent a sum of Rs.50,000/- towards repair charges, he did not adduce any acceptable evidence to substantiate the same. Moreover, the claimant admitted that he sold his vehicle to another person immediately after the accident. Therefore, no amount can be awarded towards damage to the vehicle.

8. A perusal of the records also shows that the injury sustained by the claimant are simple in nature and the Tribunal has awarded just compensation of Rs.10,000/- and hence, I do not find any reason to interfere with the findings of the Tribunal.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the orders passed by the Tribunal is upheld. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court No.I,
Salem.

Copy to

The Section Officer,
V.R.Section,
High Court,
Chennai.

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