

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.4018 of 2008

and

MP.No.1 of 2008

United India Insurance Co., Ltd,
Udumalpet.

..Appellant/3rd Respondent

Vs.

1. Saraswathi ..1st Respondent/Petitioner

2. Nagoor Meeran

3. G.Tharasingh ...Respondents 2 & 3/Respondents 1 & 2

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.11.2005 made in M.C.O.P.No.9 of 1997 on the file of the Motor Accidents Claims Tribunal, Sub Court, Udumalpet.

For Appellant : Mr.S.Arun Kumar

For R1 : Mr.K.Sathiya Murthi

For R3 : No Appearance

JUDGMENT

Challenging the liability of the appellant insurance company to pay compensation to the first respondent/claimant, this Civil Miscellaneous Appeal came to be filed.

2.In respect of an accident that took place on 11.02.1995, the first respondent/claimant filed a claim petition claiming compensation of Rs.2,00,000/-, stating that while she was proceeding as a pillion rider along with his husband, in a moped bearing Regn.No.TN41 A 7426, a lorry bearing Regn.No.TNA 9795 came in a rash and negligent manner and dashed against the moped; and due to the said impact, she sustained grievous injuries. The Tribunal, considering the pleadings, oral and documentary evidence adduced by the parties, held that the accident had occurred only due to rash and negligent driving of the driver of the lorry and ultimately, quantified the compensation at Rs.50,000/- with interest at 7.5%p.a from the date of petition. Aggrieved over the same, the appellant insurance company has filed this appeal.

3.The learned counsel for the appellant has disputed only on the finding of the Tribunal qua liability of the appellant insurance company to pay compensation to the first respondent/claimant. He further submitted that this appellant already filed an appeal in CMA.No.316 of 2019 as against the very same judgment dated 24.11.2005 passed in MCOP.No.10 of 1997, arising out of the same accident and this Court allowed the said appeal vide judgment dated 24.01.2019, the relevant portion of which reads as follows:

"5.The only contention of the learned counsel appearing for the appellant is that on the date of accident, there was no insurance policy issued by the appellant in respect of the vehicle involved in the accident. In the grounds of appeal, the appellant has stated that the insurance policy was issued only for the period from 11.01.1996 to 10.01.1997. The appellant did not examine any official to prove that except insurance policy mentioned in the grounds of appeal, no other policy was issued by the appellant. In the counter statement filed by the appellant, except general denial, the appellant has not mentioned the insurance policy, now mentioned in the grounds of appeal. In the absence of such particulars, the Tribunal has accepted the pleadings of the respondents 1 to 6 that the vehicle was insured with the appellant and held that the appellant is liable to pay compensation to the respondents 1 to 6. In my considered opinion, there is no error in the said findings of the Tribunal warranting interference by this Court.

6. In the result, the Civil Miscellaneous Appeal is dismissed and award of the Tribunal is confirmed. The appellant/Insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 6- claimants are permitted to withdraw their respective share amount as per the apportionment made by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Civil Miscellaneous petition is closed."

4.Since the issue involved herein has already been decided by this Court vide judgment dated 24.01.2019 passed in CMA.No.316 of 2019 as extracted above, the present Civil Miscellaneous Appeal is also decided on the similar lines.

5.Accordingly, this appeal is dismissed by confirming the award passed by the Tribunal. No costs. The appellant insurance company is directed to deposit the entire compensation amount along with interest and costs as awarded by the Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal shall transfer the amount lying in the deposit to the bank account of the first respondent/claimant through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Udumalpet.

Copy to :- The Section Officer, VR Section,
High Court, Madras.

+1 cc to M/s.K.Sathiya Murthi, Advocate Sr.No. 54441

+1 cc to M/s.S.Arun Kumar, Advocate Sr.No. 54610

AKM/25.02.2020/3P-5C /

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