

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.3068 of 2010

Ganesan

... Appellant/Petitioner

Versus

1. V.Haridass
2. United India Insurance Company Ltd.,
Represented by its Divisional Manager,
Vellore.
3. Ravikumar ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.89 of 2006 dated 31.12.2008, on the file of the Motor Accidents Claims Tribunal /Subordinate Judge, Gudiyatham, Vellore

For Appellant :Mr.T.Dhanyakumar

For Respondents:Mrs.R.Srividya (for R2)

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the fair and Decretal order made in M.C.O.P.No.89 of 2006 dated 31.12.2008 on the file of the the Motor Accidents Claims Tribunal /Subordinate Judge, Gudiyatham, Vellore.

2.The facts of the case are that on 16.01.2006 at about 1.30 p.m the appellant was going to his daughter's house from his native Village which is situated in Gudiyattam to Pernambut road, when he was nearing Kanaru, at that time, two Wheeler bearing Registration No.TN 23 AZ 1906 was driven by its rider in a rash and negligent manner and hit against the petitioner. Out of the said accident, the appellant sustained severe head injury and simple injuries all over the body. Therefore, the appellant filed a petition in M.C.O.P.No.89 of 2006 before the Motor Accidents Claims Tribunal /Subordinate Judge, Gudiyatham, Vellore, against the respondents (1st respondent is the owner of the two wheeler, 2nd respondent is the insurer of the two wheeler, and 3rd respondent is the subsequent purchaser and

owner cum driver of the two wheeler) claiming a sum of Rs.3,00,000/- towards compensation. The Claims Tribunal, on a consideration of oral and documentary evidence, directed the first and second respondents to pay a sum of Rs.28,000/- payable with interest at the rate of 6 % per annum as compensation from the date of petition to till the date of payment.

3. Challenging the liability fixed by the Tribunal, the appellant/petitioner preferred this present Civil Miscellaneous Appeal before this Court .

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. The learned counsel for the appellant would submit that the decision of the Tribunal in so far it relates to exonerating the 2nd respondent/Insurance company is against the facts and law and hence, the Tribunal ought to held that Insurance Company alone is liable to pay the claim amount. Therefore, the appellant prays this Court to fix the liability on the part of the 2nd respondent toward compensation.

6. The learned counsel for the 2nd respondent would submit that the vehicle involved in the accident was not insured with them. The appellant / Hero Honda rider without driving license drove his two wheeler in a negligent manner and caused the accident. Since there is no policy coverage for the two wheeler which belongs to the appellant, this petition is not maintainable either in law or on facts. Hence, the learned counsel for R2 prays for dismissal of the appeal.

7. On a perusal of records, it is evident that there is no policy coverage for the two wheeler of the appellant with the 2nd respondent/Insurance Company. Hence the 2nd respondent/Insurance company is not liable to pay the compensation to the appellant. Therefore, there is no necessity to interfere with the order passed by the Tribunal. Hence, this Court is inclined the same need not be disturbed, as the Tribunal has applied its mind and fixed liability, which do not warrant interference by this Court.

8. In the result,

a) This Civil Miscellaneous Appeal is dismissed on merits by confirming the award passed by the Tribunal in M.C.O.P.No.89 of 2006 dated 31.12.2008, on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Gudiyatham, Vellore.

b) The 1st and 3rd respondents are jointly directed to deposit the entire amount as determined by the Tribunal together with interest at 6% per annum, after adjusting amount, if any, already deposited within a period of eight weeks from the date of receipt of a copy of this Judgement.

c) On such deposit, the appellant is permitted to withdraw the said amount as per the Award made by the Tribunal with accrued interest, less the amount if any, already withdrawn on filing appropriate application before the Tribunal.

No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vum

To.

The Motor Accidents Claims Tribunal/
The Subordinate Judge,
Gudiyatham, Vellore.

Copy to:

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

+1cc to M/s.R.Sreevidhya, Advocate sr.14949

+1cc to Mr.T.Dhanyakumar, Advocate sr.14327

ssv(co)
nr 22/10/2019

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