

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1589 of 2011

K.Anbukumar

.. Appellant/2nd Respondent

vs.

1.A.Krishnan

...1st Respondent/Claimant

2.Surendar

3.The Divisional Manager,

The Oriental Insurance Co. Ltd.,

Katpadi, Vellore - 9.

..2nd Respondents/1st & 3rd Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 09.04.2011 passed in MCOP.No.195 of 2009 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Vellore.

Appellant : Mr.V.Parivallal

R1 & R2 : No appearance

R3 : Mrs.R.Sreevidhya

J U D G M E N T

The appellant is the erstwhile owner of the two wheeler bearing Registration No. TN 23 A 7099 which got involved in a road accident on 29.07.2008. Since there was no insurance for the vehicle, the Tribunal directed the present owner as well as the erstwhile owner of the vehicle to pay compensation of Rs.60,000/- in the ratio 50 : 50 with interest at the rate of 7.5% per annum. Aggrieved over the orders passed by the Tribunal, the appellant / erstwhile owner of the two wheeler has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

2. Mr.V.Parivallal, learned counsel appearing for the appellant contended that since he had sold the vehicle bearing Registration No.TN 23 A 7099 in favour of one Surender / second respondent herein, as evidenced by a delivery note (Ex.R9), the appellant is not liable to pay compensation.

Therefore he would contend that the Tribunal is wrong in fastening liability to pay compensation to the claimant in the ratio 50:50 between the present owner as well as the erstwhile owner of the vehicle.

3. A perusal of the records shows that though it is contended by the learned counsel appearing for the appellant that the appellant has sold the vehicle and a delivery note (Ex.R9) was also issued in favour of the present owner, Surendar, the Registration Certificate of the vehicle stands in the name of the present appellant and no steps were taken to get the registration of the vehicle changed in the name of the purchaser and renewal of insurance.

4. It is also pertinent to point out that the alleged present owner though filed a counter affidavit before the Tribunal to the effect that he did not purchase the vehicle, remained absent during the course of trial and was set exparte. Considering the oral and documentary evidence adduced on the side of the appellant, the Tribunal directed both the present and the erstwhile owner to pay compensation in the ratio of 50 : 50 and in the facts and circumstances, I do not find any reason to interfere with the orders passed by the tribunal and therefore, the appeal is dismissed.

5. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mtl

To

1.The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Vellore.

2.The Section Officer,
VR Section, High Court, Madras.

+2cc to M/s.V.Parivallal, Advocate SR.92315

+1cc to M/s.R.Sreevidhya, Advocate SR.93306

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CP(CO)
CB(15/06/2020)