



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1554 of 2015

United India Insurance Company Limited,
4th Floor, Silingi Building,
No.134, Greams Road,
Chennai - 600 006. .. Appellant/2nd Respondent

Vs.

1.S.Govindhan ..1st Respondent/Petitioner
2.S.Kannan ..2nd Respondent/1st Respondent
R2 Exparte before Tribunal

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.04.2014 made in M.C.O.P.No.126 of 2012 on the file of Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.

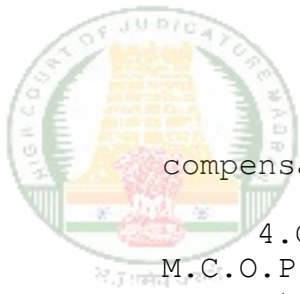
For Appellant : Mr.M.Krishnamoorthy
For R1 : Mr.K.Varadha kamaraj

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 29.04.2014 made in M.C.O.P.No.126 of 2012 on the file of Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai.

2.The appellant is the second respondent in M.C.O.P.No.126 of 2012 on the file of Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai. The first respondent filed the above said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 25.09.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to rash and negligent riding by the rider-cum-owner of the motorcycle, the second respondent herein and directed the appellant-Insurance Company to pay a sum of Rs.2,80,000/- as



compensation to the first respondent.

4.Challenging the said award dated 29.04.2014 made in M.C.O.P.No.126 of 2012, the appellant has come out with the present appeal.

5.The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal failed to consider that the complaint was given belatedly after two months and F.I.R. was registered thereafter. In the accident register, the alleged accident was not mentioned. The Tribunal failed to properly appreciate the accident register. The vehicle in question was not involved in the accident. The second respondent is elder brother of the first respondent. This fact has been suppressed before the Tribunal. The respondents have colluded together and first respondent is claiming compensation, for which he is not entitled. The Tribunal ought to have dismissed the claim petition against the appellant and prayed for setting aside the award passed by the Tribunal.

6.Per contra, Mr.K.Varadha kamaraj, learned counsel appearing for the first respondent contended that the first respondent was traveling as pillion rider in the motorcycle driven by the second respondent and the second respondent, rider of the motorcycle drove the same in a rash and negligent manner and applied sudden brake and the first respondent fell down and sustained injuries. F.I.R. was registered only against the second respondent. The Tribunal has rightly relied on the accident register. The delay in lodging F.I.R. is not a reason for dismissing the claim petition. The first respondent has examined himself as P.W.1 and deposed that accident has occurred only due to rash and negligent riding by the second respondent by applying sudden brake and first respondent fell down and sustained injuries. F.I.R. was registered against the second respondent and charge sheet was also laid against the second respondent. The appellant has not let in any evidence to disprove the contention of the first respondent. The reasoning of the Tribunal is not erroneous and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the first respondent and perused the entire materials on record.

8.From the materials available on record, it is seen that the first respondent contended that on 25.09.2011 accident has occurred while he was riding as pillion rider in the motorcycle driven by the second respondent. F.I.R. was lodged on 02.11.2011 after delay of 39 days. It is well settled that delay in lodging complaint is not fatal for the claim made by the injured or



legal heirs of the deceased. In the present case, the appellant has not examined any witness to disprove the contention of the first respondent that accident has occurred only due to rash and negligent riding by the second respondent on 25.09.2011. The Tribunal considering the F.I.R. and accident register, held that the contention of the first respondent is corroborated by these documents. In view of the same, there is no error in the award passed by the Tribunal warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is hereby confirmed. The learned counsel appearing for the appellant-Insurance Company contended that the appellant-Insurance Company has already deposited 50% of the compensation awarded by the Tribunal. The Appellant-Insurance Company is directed to deposit the award amount, 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 first respondent is permitted to withdraw the award amount along with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

To

1. The VI Judge,
Motor Accidents Claims Tribunal,
Small Causes Court,
Chennai.

copy to
The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.M.Krishnamoorthy Advocate sr35445
+1 cc to Mr.K.Varadhakamaraj Advocate sr35651

C.M.A.No.1554 of 2015

aa26/11/2019