

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2019

PRONOUNCED ON : 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No. 2939 of 2011

Varadharaj ...Appellant/Petitioner/Claimant

.. Vs ..

1. Sakthivel

2. United India Insurance Company Limited,
A.K.M.Tower, 1st Floor,
391-1, Junction Main Road,
Opposite to Union Bank of India,
Salem - 636004. ...Respondents/Respondents

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 13.06.2011 in M.C.O.P.No.139 of 2007, on the file of Motor Accidents Claims Tribunal & Principal Subordinate Judge, Salem.

For Appellant : Mr.M.R.Thangavel

For R1 : No appearance

For R2 : Mr.D.Bhaskaran

JUDGMENT

The claimant is the appellant herein. Challenging the compensation awarded in MCOP.No.139 of 2007, on the file of Motor Accidents Claims Tribunal & Principal Subordinate Judge, Salem, wherein this claim petition was rejected and the appellant has come up with the present appeal.

2 The appellant herein/claimant filed claim petition alleging that on 24.11.2006, when the appellant herein/claimant was travelling as a passenger in the Rainbow bus bearing registration No.TN-30-P-4488, from Attur to Salem near Puthiragoundampalayam Petrol bunk, the driver of the bus drove the bus in a rash and negligent manner and hit against the opposite bus, as a result of which the petitioner sustained multiple grievous injuries and immediately, the injured was taken to Chellappa Hospital, Salem for first aid and then admitted into Government Hospital, Salem for further treatment as inpatient. The appellant herein/claimant is

unable to do any work as before the accident due the said accident. The appellant herein/claimant is aged about 30 years and doing scavenger work and earning Rs.6,000/- per month. The accident was due to the rash and negligent act of the driver of the Rainbow Bus. The first respondent herein is the owner of the bus and the second respondent herein/Insurance Company is the insurer of the said vehicle are jointly and severally liable to compensate the petitioner. The first respondent remained ex-parte.

3 The Insurance Company filed a counter statement, denying the nature of the injuries sustained by the appellant herein/claimant and also denied that there was no rash and negligence on the part of the driver of the first respondent herein offending vehicle.

4 Before the Tribunal, appellant herein/claimant himself was examined as PW1 and Dr.S.Rajamanickam was examined as PW2 and Ex.P1 to P5 were marked. On behalf of the respondents, no oral or documentary evidence adduced.

5 On consideration of both oral and documentary evidence, the Tribunal has held that the claimant filed claim petition without produce the copy of the Accident Register or Discharge Summary from the hospital to substantiate his contention that he has sustained injuries in the said accident and accordingly dismissed the case. Hence the appeal.

6 Heard both sides and perused the documents.

7 The short point that arises for consideration in this appeal is that whether, the appellant herein/claimant suffered any accidental injury, said to have been taken in the accident on 24.11.2006, while he was travelling as the passenger in Rainbow bus from Attur to Salem.

8 On a perusal of the documents filed before this Court, this Court finds that there is no document available on record to show that the alleged injuries said to have been sustained by the appellant herein/claimant were due to road traffic accident. Even the discharge summary was not placed before the Tribunal and even alleged treatment at the Private Hospital namely Chellappa and the Accident Register was also not marked before the Trial Court. Even for the alleged treatment at Government Hospital, no Accident Register copy was marked before the Tribunal. This Court finds that there is no record from the private hospital and there was no Accident Register copy to show that the appellant herein/claimant had taken treatment due to road accident in Government Hospital and there is no document to show that he alleged discharge from the private hospital. It remains to be stated that during the cross-examination of PW1 by the Insurance Company, he had categorically admitted that though he was taking treatment at private Chellappa Hospital, for

one day, he had not filed any document to substantiate the same and he also admitted that he has not filed any Accident Register from the Government Hospital and hence, in the absence of any document to show that the injury said to have been found on the body of the PW1 as spoken by PW2, that PW1 had suffered accidental injury on the said date, the Tribunal right in dismissing the claim petition and the same does not warrants any interference by this Court.

9 Accordingly, the Civil Miscellaneous Appeal filed by the appellant herein/claimant is dismissed, confirming the order passed in M.C.O.P.No.139 of 2007, dated 13.06.2011, on the file of Motor Accidents Claims Tribunal & Principal Subordinate Judge. No costs.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Principal Subordinate Judge, Salem.

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

+1cc to Mr.D.Bhaskaran, Advocate SR.No.66605

+1cc to Mr.M.R.Thangavel, Advocate SR.No.66363

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PP (CO)
GMY (04/02/2020)

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