

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.225 of 2015

Arumugam

.. Appellant/ Petitioner

Vs.

1.Prakash

2.The Divisional Manager,
Royal Sundaram Alliance Insurance Company Limited,
No.46, Whites Road,
Chennai - 600 014. .. Respondents/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.09.2013 made in M.C.O.P.No.479 of 2010 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Tindivanam.

For Appellant : Mr.N.Suresh
For R2 : Ms.Elveera Ravindran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 30.09.2013 made in M.C.O.P.No.479 of 2010 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Tindivanam.

2.The appellant is claimant in M.C.O.P.No.479 of 2010 on the file of Motor Accidents Claims Tribunal, Principal Sub Court, Tindivanam. He filed the above said claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 21.06.2010.

3.According to the appellant, on 21.06.2010 at 06.35 P.M., while he was riding his bicycle after taking tea in a road side shop, the Alto car belonging to the first respondent came in a rash and negligent manner and dashed against him and caused the accident. Due to the accident, he suffered multiple injuries all over his body and thus filed claim petition claiming compensation against the respondents 1 and 2.

4.The first respondent/owner of the Alto car remained exparte before the Tribunal.

5.The second respondent/Insurance Company filed counter statement and denied all the averments made by the appellant/claimant. According to the second respondent, the appellant was brought and admitted by his wife in Government Hospital on 20.06.2010 at 07.35 P.M. At that time, the appellant was conscious and stated to the doctor that he was hit by a two wheeler while crossing the road near Lakshmi hotel in Pallapattu village. The complaint was given by one Elumalai belonging to the same village stating that after the accident he admitted the appellant in the hospital and was unable to lodge the complaint on the same day. The version of the complainant Elumalai is full of cloud and to get a fraud claim from the second respondent, they have impleaded the first respondent's vehicle in the alleged accident.

6.Before the Tribunal, the appellant examined himself as P.W.1 and Dr.Sekar as P.W.2 and marked five documents as Exs.P1 to 5. The second respondent examined one Vinothkumar, legal advisor as R.W.1 and marked the accident register of the Government Hospital, Villupuram as Ex.R1.

7.The Tribunal considering the pleadings, oral and documentary evidence, especially Exs.P2 and R1, dismissed the claim petition holding that the accident has not occurred as alleged by the appellant and driver of the first respondent is not responsible for the accident.

8.Challenging the order of dismissal dated 30.09.2013 made in M.C.O.P.No.479 of 2010, the appellant has come out with the present appeal.

9.The learned counsel appearing for the appellant contended that the Tribunal failed to consider Ex.P1/F.I.R., registered against the driver of the car, which is the offending vehicle belonging to the first respondent and prayed for allowing the appeal.

10.Heard the learned counsel appearing for the appellant as well as second respondent-Insurance Company and perused the entire materials on record.

11.From the materials available on record, it is seen that the second respondent examined one Vinothkumar, legal advisor as R.W.1 and marked Ex.R1, accident register from Government Hospital, Villupuram. In Ex.R1, it has been stated that

appellant was brought to Government Hospital by his wife on 20.06.2010 at 07.35 P.M. and appellant was conscious at that time. The appellant has stated that he was hit by a motorcycle while crossing the road and sustained injuries. Even in Ex.P2/case record of Jipmer Hospital, filed and marked by the appellant, it has been stated that he was admitted on 20.06.2010 at 12.08 A.M. According to the appellant, accident occurred on 21.06.2010 at 06.35 P.M. and he was hit by Alto car belonging to the first respondent. On the other hand, from Exs.P2 and R1, it is seen that accident has occurred on 20.06.2010 and not on 21.06.2010 at 06.35 P.M., as alleged by the appellant. In Ex.R1 it has been stated that the appellant was hit by a motorcycle while crossing the road and he sustained injuries. The Tribunal considering Exs.P2 & R1 properly and considering the contradiction statements, dismissed the claim petition. There is no perversity in the reasoning and finding of the Tribunal warranting interference by this Court.

12.In the result, this Civil Miscellaneous Appeal is dismissed confirming the order dated 30.09.2013 made in M.C.O.P.No.479 of 2010. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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

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

+1cc to Mr.N.Suresh , Advocate SR.No. 100659

+1cc to Ms.Elveera Ravindran, Advocate SR.No. 100791

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rr co

A.SK(19.04.2021)