

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.3470 of 2011

The Branch Manager,
The Oriental Insurance Co. Ltd.,
CBO 13 # 1188, 1st Floor,
28th Main Ragigudda Temple Main Road,
9th Block, Jayanagar,
Bangalore - 560 069. Appellant/2nd Respondent

vs.

1.K.Maruthi
2.S.Babu ...Respondents/Petitioner and 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 07.04.2011 passed in MCOP.No.1027 of 2009 on the file of the Motor Accident Claims Tribunal / Additional District Court, Dharmapuri.

Appellant : Mr.M.Krishnamoorthy

Respondents : No appearance

JUDGMENT

The appellant, the Branch Manager, Oriental Insurance Company Limited is the second respondent in MCOP.No.1027 of 2009 on the file of the Motor Accident Claims Tribunal / Additional District Court, Dharmapuri. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,000/- for the injuries sustained by him in a road accident on 10.03.2009.

2. The case of the claimant in nutshell is as follows:

On 10.03.2009, the claimant was riding his TVS 50 XL motorcycle bearing Registration No.TN 29 U 3791 on Uthangarai - Krishnagiri Main Road and at about 05.00 p.m, when he was nearing Jhandamedu, a speeding TVS Victor motorcycle bearing Registration No. KA 51 Q 0401, hit his motorcycle, as a result whereof, he fell down and sustained injuries all over his body.

3. According to the claimant, the rash and negligent riding of the rider of the TVS Victor motorcycle bearing Registration No. KA 51 Q 0401 belonging to the second respondent, was the cause of the accident and that since the said motorcycle was insured with the present appellant / Oriental Insurance Company Limited, the owner of the motorcycle and the insurer are jointly and severally liable to pay compensation.

4. The second respondent, owner of the TVS Victor motorcycle bearing Registration No. KA 51 Q 040 remained absent before the Tribunal and therefore, he was set ex-parte. The appellant / Oriental Insurance Company Limited contested the claim petition on all the grounds available to the insured and the learned Additional District Judge / Motor Accidents Claims Tribunal, Dharmapuri after analysing the evidence on record, awarded a compensation of Rs.10,000/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the orders passed by the Tribunal, the appellant / Oriental Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, questioning the negligence fixed on the part of rider of the second respondent by the Tribunal.

5. Heard Mr.M.Krishnamoorthy, learned counsel appearing for the appellant. No appearance on behalf of the respondents.

6. A perusal of the records shows that FIR was registered against the driver of the TVS Victor motorcycle bearing Registration No. KA 51 Q 0401 and the Tribunal based on the evidence adduced on both sides, had held that the rider of the TVS Victor motorcycle was rash and negligent. All the observations made by the Tribunal are perfectly in order and do not warrant any interference by this Court.

7. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs.
- (ii) The orders passed by the Tribunal is upheld.
- (iii) The appellant / Oriental Insurance Company Limited as well as the second respondent are directed to deposit the compensation awarded by the Tribunal i.e., Rs.10,000/- (less the amount already deposited) jointly and severally, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1027 of 2009 on the file of the Motor Accident Claims Tribunal / Additional District Court, Dharmapuri within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

Copy to

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

+1cc to Mr.M.Krishnamoorthy, Advocate Sr.90846

CMA.No.3470 of 2011

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